



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final Common Council

Wednesday, January 19, 2022

7:00 PM

Council Chambers

- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE FLAG
- D. ROLL CALL OF ALDERPERSONS
- E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS
- F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES
- [21-1737](#) Common Council Meeting Minutes of December 15, 2021
- Attachments:** [CC Minutes 12-15-21.pdf](#)
- G. BUSINESS PRESENTED BY THE MAYOR
- [22-0001](#) Health Officer Recommendation
- Attachments:** [Health Officer Recommendation.pdf](#)
[C Sepers Resume.pdf](#)
- [22-0003](#) Proclamations:
- Human Trafficking Awareness Day
 - Martin Luther King Jr. Day
- Attachments:** [Human Trafficking Awareness Day Proclamation.pdf](#)
[Martin Luther King Jr Day Proclamation.pdf](#)
- [22-0002](#) COVID-19 Report
- H. PUBLIC PARTICIPATION
- I. PUBLIC HEARINGS

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

L. COMMITTEE REPORTS

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[21-1735](#) Class "B" Beer and "Class C" Wine License application for Home Run Pizza LLC d/b/a Home Run Pizza, Jennifer M Cook, Agent, located at 1216 W Wisconsin Ave, contingent upon approval from all departments.

Attachments: [Home Run Pizza.pdf](#)

[Home Run Pizza SUP 6-14 Transfer Report 1-3-22Final.pdf](#)

Legislative History

1/12/22 Safety and Licensing recommended for approval
Committee

[21-1736](#) Class "B" Beer and "Class B" Liquor License application for Fox River House LLC d/b/a Fox River House, Cassidy Evers, Agent, located at 211 S Walnut St, contingent upon approval from all departments.

Attachments: [Fox River House.pdf](#)

[Fox River House SUP 17-03 Transfer Report 1-3-22Final.pdf](#)

Legislative History

1/12/22 Safety and Licensing recommended for approval
Committee

[21-1779](#) Request from Fire Department to enter a contract with Purina Animal Nutrition to provide confined space services for their organization.

Attachments: [0029 - Purina Confined Space Agrm 12.22.21.pdf](#)

[01-08-22_Purina_Contract_Memo.pdf](#)

Legislative History

1/12/22 Safety and Licensing recommended for approval
Committee

3. MINUTES OF THE CITY PLAN COMMISSION

[21-1747](#) Request to approve Special Use Permit #4-21 for a restaurant with alcohol sales and consumption located at 1016 East Pacific Street (Tax Id #31-1-0843-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

Attachments: [StaffReport AlpineSwift SUP For01-12-22.pdf](#)

Legislative History

1/12/22 City Plan Commission recommended for approval

[21-1749](#) Request to approve Special Use Permit #5-21 for an indoor recreation use with alcohol sales and consumption located at 2009/2011 North Richmond Street (Tax Id #31-5-2326-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

Attachments: [StaffReport Breaking Point SUP For01-12-22.pdf](#)

Legislative History

1/12/22 City Plan Commission recommended for approval

[21-1750](#) Request to approve the Stone Ridge Estates West Preliminary Plat as shown on the attached maps and subject to the conditions in the attached staff report

Attachments: [StaffReport StoneRidgeEstatesWest PreliminaryPlat For01-12-22.pdf](#)

Legislative History

1/12/22 City Plan Commission recommended for approval

[21-1751](#) Request to approve the Extraterritorial Final Plat for Center Valley at 3800 located in the Town of Grand Chute as shown on the attached maps

Attachments: [StaffReport CenterValleyat3800 FinalPlat For 01-12-22.pdf](#)

Legislative History

1/12/22 City Plan Commission recommended for approval

[21-1752](#) Request to approve the dedication of land for public right-of-way for Spartan Drive, generally located 600' east of Haymeadow Avenue to 800' west of Meade Street, connecting existing East Spartan Drive right-of-way to the west and east, (part of Tax Id #31-6-6100-62), as shown on the attached maps

Attachments: [StaffReport SpartanDrive StreetDedication For01-12-22.pdf](#)

Legislative History

1/12/22 City Plan Commission recommended for approval

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

5. MINUTES OF THE FINANCE COMMITTEE

[21-1753](#) Request to approve the Relocation Order for N8770 Firelane 1 for water main construction

Attachments: [0938 - Relocation Order.pdf](#)

Legislative History

1/10/22 Finance Committee recommended for approval

[21-1754](#) Request to approve the Relocation Order for Appleton Street from Washington Street to Packard Street for sidewalk construction and signal modification

Attachments: [0934-0937 - Relocation Order.pdf](#)

Legislative History

1/10/22 Finance Committee recommended for approval

[21-1755](#)

Request to approve the following 2021 Budget amendments:

Vaccination Clinic Grant Fund

Health Grants and Aids	+\$118,000
Salaries and Wages	+\$ 62,100
Fringes	+\$ 15,200
Parking Permits	+\$ 300
Office Supplies	+\$ 500
Other Miscellaneous Supplies	+\$ 11,900
Outside Printing	+\$ 2,500
Miscellaneous Equipment	+\$ 500
Other Contracts/Obligations	+\$ 25,000

to record grant funds from the State Department of Health Services for 2021-2024 COVID-19 vaccination costs

Vaccination Clinic Grant Fund

Other Reimbursements	+\$104,835
Outside Printing	+\$ 7,889
Medical/Lab Supplies	+\$ 900
Other Contracts/Obligations	+\$ 96,046

to record reimbursement from Outagamie County for 60% of non-staff costs for the Fox Cities Vaccination Clinic

Vaccination Clinic Grant Fund

Miscellaneous Revenue	+\$ 18,131
Overtime	+\$ 15,411
Fringes	+\$ 2,720

to record revenue received from sale of beds used to cover costs of Fire overtime and fringes for EMS

ELC (Epidemiology & Laboratory Capacity) COVID Grant Fund

Health Grants and Aids	+\$625,900
Salaries and Wages	+\$260,000
Fringes	+\$ 30,000
Other Miscellaneous Supplies	+\$150,000
Outside Printing	+\$ 5,000
Facilities Charges	+\$ 10,000
Other Contracts/Obligations	+\$170,900

to record additional grant funds from the State Department of Health Services for 2021-2022 COVID-19 pandemic response costs

ELC (Epidemiology & Laboratory Capacity) COVID Grant Fund

Health Grants and Aids - ELC	- \$166,622
Salaries and Wages - ELC	- \$ 85,000
Fringes - ELC	- \$ 11,000
Other Contracts/Obligations - ELC	- \$ 70,622
Health Grants and Aids - Vac Clinic	+\$166,622
Salaries and Wages - Vac Clinic	+\$ 82,535
Fringes - Vac Clinic	+\$ 12,480
Miscellaneous Supplies - Vac Clinic	+\$ 65,641
Outside Printing - Vac Clinic	+\$ 5,966

to transfer ELC Grant funds to Vaccination Clinic budget to cover January - June expenses

Attachments: [Finance Committee - 2021 Health Grant Budget Amendments.pdf](#)

Legislative History

1/10/22 Finance Committee recommended for approval

[21-1775](#)

Request to sole a source contract to McMahon for professional services needed to complete the 2022 Wastewater Hardscapes Improvement Project, for a contract fee of \$49,800 and a contingency of 5% to not exceed a total contract of \$52,290.

Attachments: [2022 AWWTP Hardscapes Design.pdf](#)

Legislative History

1/10/22 Finance Committee recommended for approval

[21-1778](#)

Request to award the "2022 Telulah Park Pickleball Complex" to Northeast Asphalt, Inc. in the amount of \$484,862 with a contingency of \$15,138 for a total not to exceed \$500,000.

Attachments: [2022 Telulah Pickleball.pdf](#)

Legislative History

1/10/22 Finance Committee recommended for approval

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

[21-1768](#)

Request to approve the Development Agreement (Phase II) with Merge LLC for a mixed-use development located on the southeast corner of W. Washington Street and N. Appleton Street (Tax Id #31-2-0272-00, 31-2-0272-01, and 31-2-0272-02) in Tax Increment Financing District No. 11

Attachments: [Merge Ph II DA Memo to CEDC 1-12-22.pdf](#)

[0871 - Merge - Phase 2 Dev Agrm - 2022-01-05.pdf](#)

Legislative History

1/12/22 Community & Economic recommended for approval
Development Committee

7. MINUTES OF THE UTILITIES COMMITTEE

[21-1783](#) Approve 2022 Private Lead / Galvanized Service Replacement Program.

Attachments: [2022 Private Lead Galvanized Service Replacement Program.pdf](#)

Legislative History

1/11/22 Utilities Committee recommended for approval

[21-1784](#) Award Contract Amendment 3 to Jacobs Engineering for the Water Treatment Facility Optimized Corrosion Control Treatment (OCCT) Studies in the amount of \$31,740 and a total revised contract of \$190,790.

Attachments: [OCCT Project 01-05-21.pdf](#)

Legislative History

1/11/22 Utilities Committee recommended for approval

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

10. MINUTES OF THE BOARD OF HEALTH

[21-1766](#) #15-R-21 Honeybee Rescue Resolution

Attachments: [Memo to Board of Health with Attachments.pdf](#)
[#15-R-21 Amendment.pdf](#)

Legislative History

1/12/22 Board of Health recommended for approval

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[21-1788](#) Ordinances #1-22 to #12-22

Attachments: [Ordinances to Council 1-19-22.pdf](#)

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

- Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION
- R. OTHER COUNCIL BUSINESS
- S. ADJOURN

Kami Lynch, City Clerk

Reasonable accommodations for persons with disabilities will be made upon request and if feasible.

Remote meeting attendance may be permitted pursuant to Section 2-29 of the Appleton Municipal Code and Rules of Council.



City of Appleton

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Meeting Minutes - Final Common Council

Wednesday, December 15, 2021

7:00 PM

Council Chambers

A. CALL TO ORDER

The meeting was called to order by Mayor Woodford at 7:00 p.m.

B. INVOCATION

The Invocation was offered by Alderperson Prohaska

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

Alderperson Martin appeared virtually.

Present: 15 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Michael Smith, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Joe Prohaska, Alderperson Chad Doran and Mayor Jake Woodford

Excused: 1 - Alderperson Matthew Reed

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[21-1706](#)

Common Council Meeting Minutes of December 1, 2021

Attachments: [CC Minutes 12-1-21.pdf](#)

Alderperson Hartzheim moved, seconded by Alderperson Van Zeeland, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Michael Smith, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Joe Prohaska and Alderperson Chad Doran

Excused: 1 - Alderperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

G. BUSINESS PRESENTED BY THE MAYOR

[21-1727](#)

Election Inspector Appointments 2022-2023 Election Cycle

Attachments: [Election Inspector Appointments 2022-2023 Term.pdf](#)

Aldersperson Prohaska moved, seconded by Aldersperson Smith, that the Election Inspector appointments be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Joe Martin, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Alex Schultz, Aldersperson Michael Smith, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Joe Prohaska and Aldersperson Chad Doran

Excused: 1 - Aldersperson Matthew Reed

Abstained: 2 - Aldersperson Sheri Hartzheim and Mayor Jake Woodford

[21-1734](#)

Committee Appointments & Reappointments

Attachments: [Committee Appointments 12'15'2021.pdf](#)

Aldersperson Prohaska moved, seconded by Aldersperson Hartzheim, that the appointments be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Joe Martin, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Alex Schultz, Aldersperson Michael Smith, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim, Aldersperson Joe Prohaska and Aldersperson Chad Doran

Excused: 1 - Aldersperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

[21-1730](#)

COVID-19 Report

Attachments: [COVID -19 Common Council Update 12152021.pdf](#)

H. PUBLIC PARTICIPATION

Jennifer Stephany, 333 W College Ave (ADI) spoke regarding Item 21-1578, Changes to Central Business District Street Vendors

- I. PUBLIC HEARINGS
- J. SPECIAL RESOLUTIONS
- K. ESTABLISH ORDER OF THE DAY

[21-1578](#)

Proposed changes to Municipal Code Section 9, Division 3-Central Business District Street Vendors.

Attachments: [Municipal Code Section 9 Division 3 changes.pdf](#)
[List of Business on College Ave that serve food .pdf](#)

Alderson Fenton moved, seconded by Alderson Firkus, that the Item be amended to read: "No sales shall be made within fifty (50) feet of the main entrance of a licensed food establishment during the hours said business is open unless written permission is granted"

Roll Call. Motion carried by the following vote:

Aye: 13 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Maiyoua Thao, Alderson Alex Schultz, Alderson Michael Smith, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim, Alderson Joe Prohaska and Alderson Chad Doran

Nay: 1 - Alderson Joe Martin

Excused: 1 - Alderson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

Alderson Prohaska moved, seconded by Alderson Wolff, that the Item be amended to remove the fifty (50) feet and replace it with two (2) parking stalls.

Roll Call. Motion failed by the following vote:

Aye: 4 - Alderson Joe Martin, Alderson Nate Wolff, Alderson Joe Prohaska and Alderson Chad Doran

Nay: 10 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Maiyoua Thao, Alderson Alex Schultz, Alderson Michael Smith, Alderson Kristin Alfheim and Alderson Sheri Hartzheim

Excused: 1 - Alderson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

Alderson Prohaska moved, seconded by Alderson Alfheim, that the Item be approved as amended. Roll Call. Motion carried by the following vote:

Aye: 12 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Maiyoua Thao, Alderson Alex Schultz, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim, Alderson Joe Prohaska and Alderson Chad Doran

Nay: 2 - Alderperson Joe Martin and Alderperson Michael Smith

Excused: 1 - Alderperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

[21-1667](#)

Approve proposed changes to Municipal Code Chapter 15 Solid Waste and Recycling to correspond with operational changes previously approved at Council.

Attachments: [Changes to Municipal Code Chapter 15.pdf](#)

Alderperson Prohaska moved, seconded by Alderperson Firkus, that the Solid Waste & Recycling changes be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Joe Prohaska and Alderperson Chad Doran

Nay: 1 - Alderperson Michael Smith

Excused: 1 - Alderperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

[21-1700](#)

Resolution #16-R-21 Alcohol License Demerit Point System

Attachments: [#16-R-21 Alcohol License Demerit Points.pdf](#)

Alderperson Prohaska moved, seconded by Alderperson Smith, that the Resolution be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Michael Smith, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Joe Prohaska and Alderperson Chad Doran

Excused: 1 - Alderperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

L. COMMITTEE REPORTS

Balance of the action items on the agenda.

Alderperson Prohaska moved, Alderperson Hartzheim seconded, to approve the balance of the agenda. The motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Joe Martin, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Maiyoua Thao, Alderperson Alex Schultz, Alderperson Michael Smith, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim, Alderperson Joe Prohaska and Alderperson Chad Doran

Excused: 1 - Alderperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[21-1666](#)

Approve Department of Public Works 2022 Fee Schedules.

Attachments: [Dept. of Public Works 2022 Fee Schedule.pdf](#)

This Report Action Item was approved.

[21-1668](#)

Award 2022 Contract for Operation, Maintenance, Monitoring and Passive Vent Improvements at the Closed City of Appleton Landfill to SCS Engineers, in an amount not to exceed \$218,393.

Attachments: [2022 Contract for Operations, Maint-Closed Appleton Landfill .pdf](#)

This Report Action Item was approved.

[21-1689](#)

Request from AT&T for a permanent street occupancy permit to install a 5.5' x 5.5' x 3' utility cabinet in the Henry Street right-of-way near Buchanan Street.

Attachments: [AT&T permanent street occ.-Henry Street.pdf](#)

This Report Action Item was approved.

[21-1691](#)

Approve changes to City of Appleton Brush Collection Policy.

Attachments: [Brush Collection Policy.pdf](#)

This Report Action Item was approved.

[21-1692](#)

Approve changes to City of Appleton Annual Leaf Collection Policy.

Attachments: [Annual Leaf Collection Policy.pdf](#)

This Report Action Item was approved.

[21-1693](#)

Approve 2022 Sole Source Purchase Request for various traffic equipment and technologies.

Attachments: [2022 Sole Source Purchase Request.pdf](#)

This Report Action Item was approved.

[21-1696](#)

Lawrence Street, from Appleton Street to Durkee Street, be reconstructed with concrete pavement and curb and gutter. The details of the proposed Lawrence Street reconstruction project are as follows:

Appleton St - Oneida St:

- New concrete pavement constructed to a width of 58' from back of curb to back of curb, which is 22' wider than the existing street within this portion of the project.
- 1 travel lane in each direction
- Dedicated left turn lane at Appleton Street for westbound traffic
- Dedicated bike lanes along both sides of the street
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- Raised intersection @ Oneida Street

Oneida St - Morrison St:

- New concrete pavement to be constructed to a width of 50' from back of curb to back of curb, which is 9' wider than the existing street within this portion of the project.
- 1 travel lane in each direction
- Dedicated bike lanes along both sides of the street
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- Raised intersection @ Morrison Street

Morrison St - Durkee St:

- New concrete pavement to be constructed to a width of 55' from back of curb to back of curb, which is 14' wider than the existing street within this portion of the project.
- 1 travel lane in each direction
- Dedicated bike lanes along both sides of the street
- Back-in angled parking along the north side of the street
- Parallel on-street parking along the south side of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- Raised intersection @ Durkee Street

This Report Action Item was approved.

[21-1697](#)

Oneida Street, from Lawrence Street to College Avenue, be reconstructed with concrete pavement and curb & gutter. The details of the proposed Lawrence Street reconstruction project are as follows:

- New concrete pavement to be constructed to a width of 38' from back of curb to back of curb, which is 4' narrower than the existing street within this portion of the project.
- 1 travel lane in each direction
- Parallel on-street parking along both sides of the street
- 2 marked mid-block crosswalks
- Proposed streetscape elements per Downtown Streetscape Design Guide

This Report Action Item was approved.

[21-1698](#)

Morrison Street, from Lawrence Street to Washington Street, be reconstructed with concrete pavement and curb and gutter. The details of the proposed Morrison Street reconstruction project are as follows:

Lawrence St - College Ave:

- New concrete pavement constructed to a width of 38' from back of curb to back of curb, which is 4' narrower than the existing street within this portion of the project.
- 1 travel lane in each direction
- Shared bike lanes
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- 2 marked mid-block crosswalks

College Ave -Washington St:

- New concrete pavement constructed to a width of 38' from back of curb to back of curb, which is 4' narrower than the existing street within this portion of the project.
- 1 travel lane in each direction
- Shared bike lanes
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- 1 marked mid-block crosswalk

This Report Action Item was approved.

[21-1699](#)

Durkee Street, from 200' south of Lawrence Street to Washington Street, be reconstructed with concrete pavement and curb and gutter. The details of the proposed Durkee Street reconstruction project are as follows:

200' south of Lawrence St - Lawrence St:

- New concrete pavement constructed to a width of 38' from back of curb to back of curb, which is the same width as the existing street within this portion of the project.
- New concrete sidewalk extended to the south limits of the project along the east side of the street
- 1 travel lane in each direction
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- Cul-de-sac at south end of the block

Lawrence St - College Ave:

- New concrete pavement constructed to a width of 38' from back of curb to back of curb, which is 5' wider than the existing street within this portion of the project.
- 1 travel lane in each direction
- Shared bike lanes
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide

College Ave -Washington St:

- New concrete pavement constructed to a width of 38' from back of curb to back of curb, which is 7' narrower than the existing street within this portion of the project.
- 1 travel lane in each direction
- Shared bike lanes
- Parallel on-street parking along both sides of the street
- Proposed streetscape elements per Downtown Streetscape Design Guide
- 1 marked mid-block crosswalk

This Report Action Item was approved.

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[21-1345](#)

Class "A" Beer and "Class A" Liquor License application for Tee Tees Nachos LLC, Timasha Thornton, Agent, located at 550 N Morrison St #C, contingent upon approval from all departments.

Attachments: [Tee Tees Nachos LLC Class A Combo.pdf](#)
[StaffReport_PaintCraft Studio_SUP_For12-8-21.pdf](#)

This Report Action Item was approved.

[21-1439](#)

Class "B" Beer License application for Tee Tee's Nachos LLC d/b/a Tee Tee's Nachos, Timasha Thornton, Agent, located at 550 N Morrison St Suite D, contingent upon approval from all departments.

Attachments: [Tee Tees Nachos LLC Class B Beer.pdf](#)
[StaffReport_PaintCraft Studio_SUP_For12-8-21.pdf](#)

This Report Action Item was approved.

[21-1543](#)

"Class A" Liquor License application for SG Petroleums LLC d/b/a SG Petroleums and Change of Agent to Sudhansh Goel, located at 2811 E Newberry St.

Attachments: [SG Petroleums.pdf](#)

This Report Action Item was approved.

[21-1567](#)

Class "A" Beer and "Class A" Liquor License Change of Agent application for Walgreens Co d/b/a Walgreens #02921, Stephanie Schroeder, New Agent, located at 1901 S Oneida St.

Attachments: [Stephanie S Schroeder S&L.pdf](#)

This Report Action Item was approved.

[21-1597](#)

2022 Secondhand Article, Secondhand Jewelry and Pawnbroker License renewal applications, contingent upon approval from all departments.

Attachments: [2022 Secondhand Renewals.pdf](#)

This Report Action Item was approved.

3. MINUTES OF THE CITY PLAN COMMISSION

[21-1553](#)

Request to approve Special Use Permit #3-21 for a paint/craft studio with alcohol sales and service located at 550 North Morrison Street, Unit D - Rooms 3, 4, 5 and 6 (Tax Id #31-2-0586-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report and approve attached Resolution (2/3 vote of Common Council required for approval)

Attachments: [StaffReport_PaintCraft Studio_SUP_For11-10-21.pdf](#)
[StaffReport_PaintCraft Studio_SUP_For12-8-21.pdf](#)

This Report Action Item was approved.

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

[21-1687](#)

Action Item: Approval of Select Photos Received From the Rhythms of the World Event to be Placed in the Welcome Tower in Houdini Plaza

Attachments: [Rythms of the World Photos.pdf](#)

This Report Action Item was approved.

5. MINUTES OF THE FINANCE COMMITTEE

[21-1688](#)

Request to approve write off \$17,559.48 of accounts receivable invoices and \$35,256.24 of personal property taxes (outstanding over one year).

Attachments: [Finance Committee - PP Write-off List 2021.pdf](#)
[Finance Committee - AR Write-off List 2021.pdf](#)

This Report Action Item was approved.

[21-1701](#)

Request to award Unit G-20 Sequoia Drive Sewer, Water, Grade & Gravel to Carl Bowers & Sons Construction Co., Inc in the amount of \$801,025 with a 5% contingency of \$40,000 for a project total not to exceed \$841,025

Attachments: [Award of Contract - Unit G-20.pdf](#)

This Report Action Item was approved.

[21-1702](#)

Request to approve Contract Amendment / Change Order No. 1 to contract 31-21, Unit B-21 Asphalt Pavement Reconstruction, for additional final measured concrete, curb & gutter, and sidewalk quantities for Summer Street in the amount of \$34,000. This change order reduces contingency from \$45,625 to \$31,625. Overall contract amount increases from \$1,757,773 to \$1,777,773

Attachments: [Unit B-21 Change Order No. 1.pdf](#)

This Report Action Item was approved.

[21-1731](#)

Request to award the City of Appleton's contract for rental and cleaning of uniforms and related items to Aramark Uniform Services

Attachments: [Finance Committee - 2022 Uniform Award Memo.pdf](#)

This Report Action Item was approved.

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

7. MINUTES OF THE UTILITIES COMMITTEE

[21-1634](#)

Approve update to Municipal Code Chapter 20, Article II Water Utility, creating new Section 20-44 Lead and Galvanized Water Service Line Replacement.

Attachments: [0028 - Sec 20-44 - Lead Pipe Replacement.pdf](#)

This Report Action Item was approved.

[21-1660](#)

Award of 2022A Stormwater Consulting Services Contract for 2022 Stormwater Management Plan Reviews to Brown and Caldwell in an amount not to exceed \$47,500.

Attachments: [2022A Plan Review Award Util Memo BC.pdf](#)

This Report Action Item was approved.

[21-1661](#)

Award of 2022B Stormwater Consulting Services Contract for 2022 Stormwater Management Plan Reviews to raSmith in an amount not to exceed \$47,500.

Attachments: [2022B Plan Review Award Util Memo raSmith.pdf](#)

This Report Action Item was approved.

[21-1662](#)

Amend 2020D Stormwater Consulting Services Contract for the City-wide Stormwater Management Plan Update with Brown and Caldwell by an increase of \$14,430 for a total contract amount not to exceed \$214,411.

Attachments: [2020D Citywide SWMP Update BC Amendment Memo Util Cmte.pdf](#)

This Report Action Item was approved.

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

[21-1652](#)

Request to approve the 2022 Non Represented salary schedule with a 1.25% increase.

Attachments: [2022 Non Rep Salary Schedule.pdf](#)

This Report Action Item was approved.

[21-1653](#)

Request to approve the 2022 Seasonal salary schedule with a 1.25% increase.

Attachments: [2022 Seasonal pay plan.pdf](#)

This Report Action Item was approved.

[21-1654](#)

Approve exception to the Salary Administration Policy to allow for a 2.5% across the board adjustment in lieu of pay for performance for year-end 2021.

Attachments: [Salary Admin Policy Exception.pdf](#)

This Report Action Item was approved.

[21-1656](#)

Request to eliminate the Attendance Policy and incorporate language into the Code of Conduct Policy.

Attachments: [Code of Conduct policy.pdf](#)
[Attendance Policy.pdf](#)

This Report Action Item was approved.

[21-1658](#) Request to eliminate current Travel Policy and replace with TravelWise Guidelines

Attachments: [Travel Wise Guidelines 2021.pdf](#)
[Travel Policy FINAL.pdf](#)

This Report Action Item was approved.

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

[21-1672](#) Certify Public Transportation Agency Safety Plan (PTASP)

Attachments: [VT PTASP 12.1.21.pdf](#)

This Report Action Item was approved.

[21-1673](#) Approve changes to Valley Transit Drug and Alcohol Policy

Attachments: [Valley Transit Drug Alcohol Policy.pdf](#)

This Report Action Item was approved.

[21-1674](#) Approve the Intermunicipal Agreement with Outagamie County for Specialized Transportation Services for 2022 Contingent on Outagamie County Approval

Attachments: [OUTAGAMIE CONTRACT - 2022.pdf](#)

This Report Action Item was approved.

[21-1675](#) Approve the Intermunicipal Agreement with Winnebago County for Specialized Transportation Services for 2022 Contingent on Winnebago County Approval

Attachments: [WINNEBAGO CONTRACT - 2022.pdf](#)

This Report Action Item was approved.

[21-1676](#) Approve the Intermunicipal Agreement with Calumet County for Specialized Transportation Services for 2022 Contingent on Calumet County Approval

Attachments: [CALUMET CONTRACT - 2022.pdf](#)

This Report Action Item was approved.

[21-1677](#) Approve the Intermunicipal Agreement with the City of Neenah and the Village of Fox Crossing for the Northern Winnebago Dial-A-Ride Service for 2022 Contingent on City of Neenah and the Village of Fox Crossing Approval

Attachments: [NW Dial-A-Ride - 2022.pdf](#)

This Report Action Item was approved.

[21-1678](#) Approve 2022 - 2023 Federal Section 5310 Sub-recipient Contract

Attachments: [FCTC Approve Federal Section 5310 Sub-recipient Contract rate.pdf](#)
[2022 - 2023 5310 GRANT AGREEMENT LSS final.pdf](#)

This Report Action Item was approved.

10. MINUTES OF THE BOARD OF HEALTH

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[21-1707](#) Ordinances #80-21 and #81-21

Attachments: [Ordinances going to Council 12-15-21.pdf](#)

Aldersperson Prohaska moved, seconded by Aldersperson Hartzheim, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Joe Martin, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Maiyoua Thao, Aldersperson Alex Schultz, Aldersperson Michael Smith, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim, Aldersperson Joe Prohaska and Aldersperson Chad Doran

Excused: 1 - Aldersperson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

R. OTHER COUNCIL BUSINESS

[21-1728](#)

Approve cancellation of January 5, 2022 Common Council meeting

Alderson Prohaska moved, seconded by Alderson Hartzheim, that the cancellation of the January 5th 2022 Common Council meeting be approved.

Roll Call. Motion carried by the following vote:

Aye: 14 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Joe Martin, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Maiyoua Thao, Alderson Alex Schultz, Alderson Michael Smith, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim, Alderson Joe Prohaska and Alderson Chad Doran

Excused: 1 - Alderson Matthew Reed

Abstained: 1 - Mayor Jake Woodford

S. ADJOURN

Alderson Smith moved, seconded by Alderson Prohaska, that the meeting be adjourned at 8:04 p.m. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Joe Martin, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Maiyoua Thao, Alderson Alex Schultz, Alderson Michael Smith, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim, Alderson Joe Prohaska and Alderson Chad Doran

Excused: 1 - Alderson Matthew Reed

Abstained: 1 - Mayor Jake Woodford


Kami Lynch, City Clerk



"...meeting community needs...enhancing quality of life."

OFFICE OF THE MAYOR

Jacob A. Woodford
100 North Appleton Street
Appleton, Wisconsin 54911
Phone: (920) 832-6400
Email: Mayor@Appleton.org

TO: Common Council
FROM: Mayor Jacob A. Woodford 
DATE: January 19, 2022
RE: Health Officer Recommendation

A search for a new Health Officer for the City of Appleton was initiated in March 2021 in anticipation of a June 2021 retirement. Effective June 4, Public Health Nurse Supervisor Sonja Jensen BSN, RN was appointed Interim Health Officer – Ms. Jensen has since been promoted to Deputy Director, a role she will retain following appointment of a new Health Officer.

Due to similar open positions across Wisconsin and the United States, and the ongoing pandemic, the City of Appleton faced significant challenges in completing this search. However, after diligent recruitment efforts on the part of our Human Resources Department, I am pleased to bring forward an excellent candidate for your consideration.

The candidate brings over a decade of experience in community and public health, holding a Master of Public Health and an MA and PhD in Behavioral Psychology with an emphasis on Community Health and Development. Most recently, he has served as Chief Public Health Officer/Health Director for the East Central Health District Health Department in Columbus, Nebraska. The candidate currently serves as chair of the Board of Directors of Centro Hispano Comunitario de Nebraska; vice chair of the Community Advisory Board of the Community and Family Partnership of the Columbus Area United Way; and is a member of the Board of Directors of the Nebraska Association of Local Health Directors.

It is my honor to recommend Charles E. Sepers, Jr., PhD, to serve as the City of Appleton's next Health Officer. His resume is attached for your reference.

Please be in contact should you have any questions or concerns.

Charles E Sepers, Jr, PhD, MPH

Columbus, NE 68601 • (785) 380-7635
cseperso87@gmail.com
<https://www.linkedin.com/in/csepers/>

Mission-driven public health administrator with over 10 years of progressively responsible leadership and implementation experience in health promotion and prevention programs. Skilled in program and policy analysis, public health system modernization, program implementation and evaluation, and public health emergency preparedness and response. Experience in supervision and management of professional staff and fiscal oversight. Fervent advocate for the health and well-being of all people.

Competencies

- **Strategic Planning**—implemented four Community Health Needs Assessments, facilitated more than a dozen workshops on strategic planning with professional organizations and community groups.
- **Personnel Management & Team Development**—managed large and small teams, including public health workforce development.
- **Budget Development, Program Implementation, & Evaluation**—co-authored more than \$10 million in external funding proposals. Directs and monitors an annual budget of \$2 million and \$10 million in total assets. Evaluated sprawling state and national public health initiatives using a variety of evaluation frameworks, including collective impact.

Work Experience

Health Director/Chief Public Health Officer

04/2019-Present

East Central District Health Department, Columbus, NE

- Leads the day-to-day management of programs, personnel, budgets, and administrative tasks across three locations.
- Manages and mentors 20 full-time staff and more than 40 volunteers working on site and remotely.
- Directs and monitors an annual budget of \$2 million and \$10 million in total assets.
- Pursues funding to advance the strategic vision and mission of the Department.
- Leads the Department in serving as the health district's Chief Public Health Strategist.
- Leads the Public Health Accreditation Board (PHAB) compliance and quality improvement activities.
- Builds and maintains collaboration with local, regional, and state partners to achieve Department strategic goals.
- Represents the Department and District on local, regional, and statewide commissions and committees.

Evaluation Project Coordinator

01/2016-04/2019

Center for Community Health and Development, University of Kansas, Lawrence, KS

- Coordinated the Missouri Foundation for Health's Healthy Schools, Healthy Communities childhood obesity initiative's participatory evaluation.
 - Provided evaluation technical assistance to project grantees in more than 70 schools, 15 counties, and more than 33 school districts.
- Coordinated the participatory evaluation of the Bristol-Myer Squibb Foundation's national Together on Diabetes initiative.
 - Provided evaluation technical assistance to project grantees within 22 implementation projects and 75 communities, worksites, and healthcare systems.
- Coordinated the Partners for Prevention initiative which provided evaluation technical assistance to federal Drug-Free Communities grantees utilizing the Strategic Prevention Framework.
- Project coordinator for the Rural Futures Institute's Platte County Lifestyle Coalition's Capacity Building for Implementation initiative.
- Developed qualitative and quantitative monitoring and evaluation data collection platforms.
- Designed and implemented participatory research agendas.
- Trained health department staff as part of two academic health department agreements.
- Directed more than 20 professional staff in data collection, report generation, and dissemination.
- Coauthored funded grants totaling more than \$2.5 million.

Graduate Research Assistant

08/2012-01/2016

Center for Community Health and Development, University of Kansas, Lawrence, KS

- Evaluated the Bristol Myers Squibb Foundation's Together on Diabetes initiative across 75 communities.
- Evaluated the NHLBI-funded Healthy Community Study focusing on childhood obesity.
- Evaluated the 2014 CDC REACH grant in Wyandotte County, KS and supervised the quality-assurance team consisting of 20 professional staff.

- Implemented four Community Health Needs Assessments (CHNA) and Community Health Improvement Plans (CHIP).
- Implemented three NACCHO MAPP public health infrastructure assessments within three communities.
- Prepared and presented more than 30 workshops and invited presentations to NGOs, government agencies, and other community stakeholders.
- Prepared and presented 33 peer-reviewed papers and sessions on topics related to preventive health and public health program implementation and evaluation.
- Co-authored and published six peer-reviewed, scientific papers.

Graduate Teaching Assistant

08/2012-01/2016

Center for Community Health and Development, University of Kansas, Lawrence, KS

- Assisted faculty with classroom instruction, exam, record keeping, grading, and guest lectures.

Evaluator, Full Service Community Schools

08/2011-06/2013

University of Nebraska at Kearney, Kearney, NE

- Coordinated all aspects of data organization including collection, verification, cleaning, and statistical analysis.
- Developed internal and external reports including Department of Education reporting requirements.

Representative Service

- Chairperson (current)—Board of Directors, Centro Hispano Comunitario de Nebraska, Columbus, NE
- Vice Chairperson (current)—Community Advisory Board, Community and Family Partnership of the Columbus Area United Way, Columbus, NE
- Member (current)—Board of Directors, Nebraska Association of Local Health Directors, Lincoln, NE
- Member (current)—Community Action Board, CDC Childhood Obesity Research Demonstration (CORD) 3.o, Kearney, NE
- Preceptor (2020)—University of Nebraska Medical Center MPH Applied Experience Internship

Education

Doctor of Philosophy (2021) Behavioral Psychology: Community Health and Development

University of Kansas, Dissertation Title: Examining Leveled Diabetes Self-Management Education and Support Interventions to Improve Clinical Outcomes in a National Diabetes Initiative

Master of Public Health (2017)

University of Kansas Medical Center, Capstone Title: Evaluating Efforts to Improve Quality of Care of a National Diabetes Treatment Initiative Targeting Medically Underserved Patients

Master of Arts (2015) Behavioral Psychology: Community Health and Development

University of Kansas, Thesis Title: Measuring the Implementation and Effects of a Coordinated Care Model Featuring Diabetes Self-Management Education within Four Patient-Centered Medical Homes

Bachelor of Science (2012) Psychology & Exercise Science

University of Nebraska Kearney, Kearney, NE

Associate of Arts (2009) Psychology & Exercise Science

Central Community College, Grand Island, NE

Honors, Fellowships & Awards

- 2021** University of Nebraska Medical Center Chancellor's Distinguished Service Award
- 2021** Central Community College Outstanding Alumni Award, Columbus, NE
- 2019** Nebraska Latino American Commission Hispanic Heritage Month Organizational Award
- 2014** Friends of the Life Span Institute Graduate Research Assistant Award
- 2013** Psi Chi Graduate Assistantship Grant
- 2012** Recognition of Outstanding Achievement in Research, Council on Undergraduate Research
- 2012** Donald L. Stumpff Award, Outstanding Student in Psychology, Department of Psychology, University of Nebraska Kearney
- 2012** Department of Psychology Student Service Award, University of Nebraska Kearney
- 2012** Distinguished Honors in Psychology, Department of Psychology, University of Nebraska Kearney
- 2012** Exercise Science Student of the Year, Department of HPERLS, University of Nebraska Kearney

PROCLAMATION



Office of the Mayor

WHEREAS, human trafficking is a form of modern slavery that occurs across the country, wherein victims are forced to work in various forms of exploitative labor including commercial sex acts and other services that are induced through force, fraud, or coercion; and

WHEREAS, due to its isolated and discrete nature, many people are unaware that trafficking exists in their communities; and

WHEREAS, in 2020 there were 109,216 victims of human trafficking identified worldwide, and in the United States, our youngest populations are most vulnerable to exploitation; and

WHEREAS, the City of Appleton is committed to fighting human trafficking through investigation, apprehension, and prosecution and is working diligently to bring awareness to the fact that human trafficking occurs closer to home than we might think; and

WHEREAS, Human Trafficking Awareness Day is an opportunity to recognize the critical role we all play in prevention of these violent crimes.

NOW, THEREFORE, BE IT RESOLVED, THAT I, JACOB A. WOODFORD, Mayor of the City of Appleton, Wisconsin, do hereby proclaim January 11, 2022 as

Human Trafficking Awareness Day

in Appleton and encourage residents to increase awareness about identification of human trafficking along with becoming familiar with resources and services that can help decrease the number of future victims.

Signed and sealed this 11th day of January 2022.



JACOB A. WOODFORD
MAYOR OF APPLETON

PROCLAMATION



Office of the Mayor

WHEREAS, Reverend Dr. Martin Luther King, Jr. devoted his life to advancing equality, social justice, and opportunity for all, and challenged all citizens to participate in the work of building a more perfect union; and

WHEREAS, Dr. King said that everyone can be great because everyone can serve, and encouraged all Americans to serve their neighborhoods and communities; and

WHEREAS, in 1994, Congress initiated the King Holiday and Service Act, designated as a national day of volunteer service; and, therefore, hundreds of Appleton residents will spend the 2022 King Holiday performing community service; and

WHEREAS, the 2022 Martin Luther King, Jr. Day is a time for the people of Appleton to recognize Dr. King's teachings on advancing equality and opportunity for all by contributing their own time and talents in a day of service; and

WHEREAS, although volunteerism may look different due to the pandemic, small and large non-profit organizations, educational institutions, and businesses across the community have organized projects for students and residents to engage in service to honor the legacy and vision of Dr. King.

NOW, THEREFORE, BE IT RESOLVED, THAT I, JACOB A. WOODFORD, Mayor of the City of Appleton, Wisconsin, do hereby proclaim January 17, 2022 as

Martin Luther King, Jr. Day

in Appleton and encourage residents to honor the memory of Dr. King and put his teachings into action by taking part in volunteer service for the benefit of our community and neighborhoods.



Signed and sealed this 13th day of January 2022.


JACOB A. WOODFORD
MAYOR OF APPLETON

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
As this is new license, both of the owners have completed the responsible beverage server training course. The one investor will not be required to complete as he is investor only and not part of day to day operations

7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.

8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No

9. (a) **Corporate/limited liability company applicants only:** Insert state WI and date ~~01/01/2022~~ ^{sc} 12/07/2021 of registration.

(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No

(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No

10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No

11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No

12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <u>Cook, Jennifer M</u>	Title/Member <u>COO</u>	Date <u>12/08/2021</u>
Signature <u>Jennifer M Cook</u>	Phone Number 	Email Address

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>12-13-21</u>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton Alcohol License Questionnaire

1. Name of Applicant: Jennifer M Cook

2. Name of Business: Home Run Pizza

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

3. Address of Business: 1216 W Wisconsin Avenue, Appleton WI 54914

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No X

AND/OR been convicted of a felony? Yes _____ No X

If yes to either question, please explain in detail below:

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>Jennifer</u>	<u>M</u>	<u>Cook</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
<u>Jerald</u>	<u>P</u>	<u>Cook</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
<u>Luke</u>	<u>J</u>	<u>Jacobs</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
First name	M.I.	Last name	Date of Birth

6. Name of person/corporation you are buying the premise and equipment from?

Name: Patricia h Reinke
First name Middle Initial Last name

Address: 7 Greves Court Appleton WI 54914
City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: Home Run Pizza

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.

No _____ If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.

9. If alcohol sales were a previous use in this building, when did the operation cease?

— months ago.

10. Seating capacity: Inside 65 Outside 35

11. Operating hours (Inside the building): Wed-Thur-Sun 3:00P-8:00P, Fri-Sat 3:00P-08:30P
Operating hours (Outdoor seating areas): same

12. Employees/Staff

Number of floor personnel 4 Number of door checkers 0

13. In general, state the size and operational details of the proposed establishment:

- a. Gross floor building area of the premises to be licensed: 4,000 square feet.
- b. Gross outdoor seating areas of the premises to be licensed: 900 square feet.
- c. Below, identify the operational details of the proposed establishment:

Restaurant that specializes in pizza (fresh/frozen)
with a full menu.

Jelly Cook
Signature

12/08/2021
Date

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village of APPLETON County of Outagamie
 City

The undersigned duly authorized officer/member/manager of Homerun Pizza WI LLC
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Homerun Pizza
(Trade Name)

located at 1216 W Wisconsin Avenue, Appleton WI 54914

appoints Jennifer M Cook
(Name of Appointed Agent)
1918 N McIntosh Drive, Appleton, WI 54914
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 48 years

Place of residence last year 1918 N McIntosh Dr, Appleton WI 54914

For: Home Run Pizza WI LLC
(Name of Corporation / Organization / Limited Liability Company)

By: Jef Cook
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, Jennifer M Cook, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Jef M Cook 12/08/2021
(Signature of Agent) (Date)

Agent's age 48

1918 N McIntosh Drive, Appleton WI 54914
(Home Address of Agent)

Date of birth 12/08/1973

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)



Community and Economic Development

**Transfer of Special Use Permit #6-14
1216 West Wisconsin Avenue
Zoning Classification: C-2 General Commercial District**

Date: January 3, 2022

Background:

Special Use Permit #6-04 was approved for a restaurant with an outdoor patio with alcohol sales located at 1216 West Wisconsin Avenue. This special use permit runs with the land.

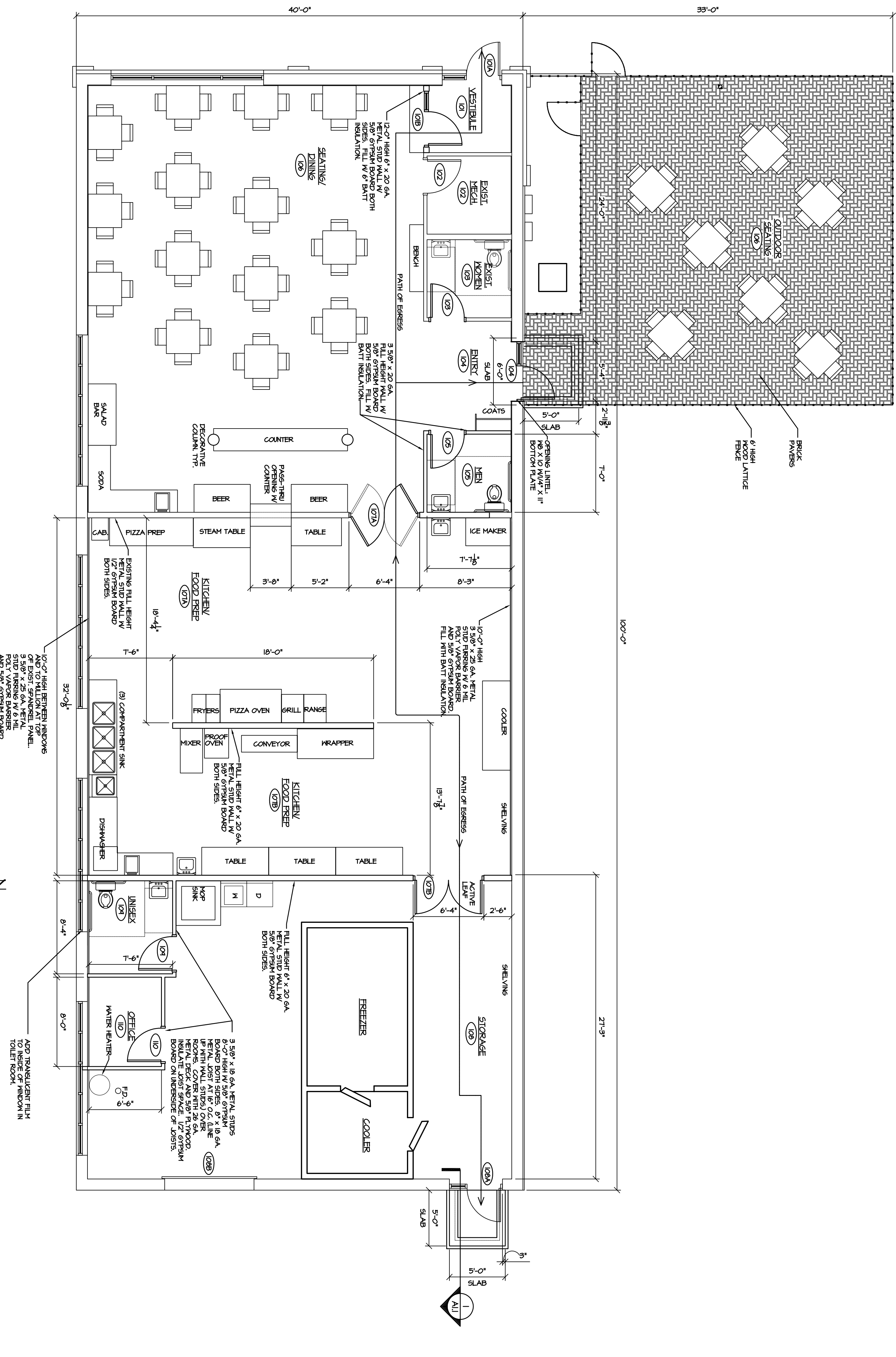
On-going Condition of Special Use Permit #6-14:

1. Any deviations from the approved Development Plan (attached) or Operational Plan (aka alcohol license questionnaire) may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance.

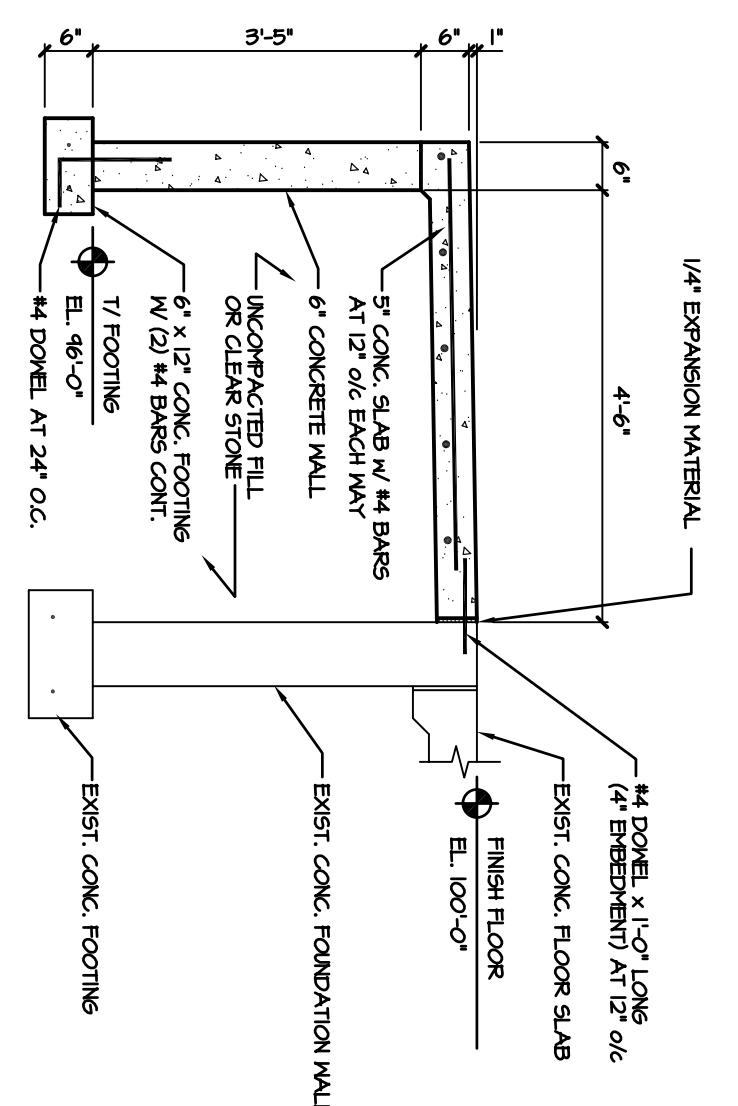
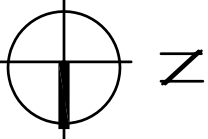
Analysis:

Based upon the above referenced information and the Liquor License Questionnaire dated December 8, 2021, appears to be consistent with the Special Use Permit #6-14. Therefore, Special Use Permit #6-14 is transferred to the applicant upon the issuance of the Liquor License to allow for the continued use of the premises subject to the condition of SUP #6-14 being complied with.

Please contact the Community and Economic Development Department at (920)832-6468 with any questions or any proposed changes to the development plan(s) or the alcohol license questionnaire.



PROPOSED FLOOR PLAN
SCALE: 3/16" = 1'-0"



STOOP DETAIL
SCALE: 1/2" = 1'-0"

REV. NO.	DESCRIPTION	DATE	BY	REV. NO.	DESCRIPTION	DATE	BY

PROJECT: HOME RUN PIZZA BUILDING RENOVATIONS
LOCATION: 1216 W. WISCONSIN AVENUE APPLETON, WISCONSIN
DESCRIPTION: PROPOSED FLOOR PLAN

HARRIS & ASSOCIATES, INC.
 CONSULTING ENGINEERS AND LAND SURVEYORS
 2718 NORTH MEADE ST. APPLETON, WI 54911
 TEL: (920) 733-8377
 FAX: (920) 733-4731

Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 7/1/21 ending: 6/30/22
(mm/dd/yyyy) (mm/dd/yyyy)

To the Governing Body of the: Town of Village of City of } APPLETON

County of OUTAGAMIE Aldermanic Dist. No. _____
 (if required by ordinance)

Check one: Individual Limited Liability Company
 Partnership Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number	
[REDACTED]	
FEIN Number	
[REDACTED]	
TYPE OF LICENSE REQUESTED	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$ 100
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input checked="" type="checkbox"/> Class B liquor	\$ 500
<input type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$ 60
TOTAL FEE	\$

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
FOX RIVER HOUSE LLC

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>STILES</u>	<u>KEVIN</u>	<u>J</u>	<u>218 W. 5TH ST KAUKAUNA WI 5430</u>
Vice President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>RIEGER</u>	<u>CHRIS</u>	<u>E</u>	<u>218 W. 5TH ST KAUKAUNA WI 5430</u>
Secretary / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>EVERS</u>	<u>CASSIDY</u>	<u>M</u>	<u>742 W PROSPECT AVE APPLETON WI 54911</u>
Treasurer / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>RICKS</u>	<u>MATT</u>	<u>C</u>	<u>742 W PROSPECT AVE APPLETON WI 54911</u>
Agent Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>EVERS</u>	<u>CASSIDY</u>	<u>M</u>	<u>742 W PROSPECT AVE APPLETON WI 54911</u>
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)



1. Trade Name FOX RIVER HOUSE Business Phone Number 920-903-9968
 2. Address of Premises 211 S. WALNUT ST Post Office & Zip Code 54911

3. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)
BASEMENT STORAGE IN BASEMENT FOR LIQUOR
LIQUOR SOLD IN MAIN BAR ON MAIN LEVEL WITH COOLER AND TAPS.
OUTDOOR BAR SERVING AND STORING LIQUOR OUTSIDE
LOCKED UP. ALSO A COOLER WITH BEER

4. Legal description (omit if street address is given above): _____
 5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? Yes No
 (b) If yes, under what name was license issued? FOX RIVER HOUSE

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
AGENT HAS OPERATORS LICENSE
7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No
9. (a) **Corporate/limited liability company applicants only:** Insert state WI and date 11/1/21 of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <u>EVERS, CASSIODY M.</u>	Title/Member <u>MEMBER</u>	Date <u>12/15/21</u>
Signature <u>Cassidy Evers</u>	Phone Number 	Email Address 

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>12-15-21</u>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton Alcohol License Questionnaire

1. Name of Applicant: CASSIDY EVERS

2. Name of Business: FOX RIVER HOUSE

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

3. Address of Business: 211 S. WALNUT ST APPLETON WI 54911

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No X

AND/OR been convicted of a felony? Yes _____ No X

If yes to either question, please explain in detail below:

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>CASSIDY</u>	<u>M</u>	<u>EVERS</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
<u>KELLY</u>	<u>J</u>	<u>STILES</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
<u>MATTHEW</u>	<u>C</u>	<u>RICKS</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth
<u>CHRIS</u>	<u>E</u>	<u>RIEGER</u>	● / ● / ●●
First name	M.I.	Last name	Date of Birth

6. Name of person/corporation you are buying the premise and equipment from?

Name: STEVE OLSON
First name Middle Initial Last name

Address: 211 S. WALNUT ST APPLETON WI 54911
City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: FOX RIVER HOUSE

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
 Tavern/Night Club/Wine Bar
 Microbrewery/Brewpub
 Painting/Craft Studio
 Other (describe) _____

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.

No _____ If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.

9. If alcohol sales were a previous use in this building, when did the operation cease?

— months ago.

10. Seating capacity: Inside 99 Outside —

11. Operating hours (Inside the building): 3pm - 2-2:30 am
Operating hours (Outdoor seating areas): 3pm - 2-2:30 am

12. Employees/Staff

Number of floor personnel 8 Number of door checkers _____

13. In general, state the size and operational details of the proposed establishment:

- a. Gross floor building area of the premises to be licensed: 1500 square feet.
b. Gross outdoor seating areas of the premises to be licensed: 870 square feet.
c. Below, identify the operational details of the proposed establishment:

SERVING DRINKS INSIDE AT THE BAR AS WELL
AS OUTSIDE BAR IN SUMMER MONTHS

Cassidy Ewo
Signature

12/15/21
Date

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village City of APPLETON County of OUTAGAMIE

The undersigned duly authorized officer/member/manager of FOX RIVER HOUSE LLC
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as FOX RIVER HOUSE
(Trade Name)

located at 211 S. WALNUT ST APPLETON WI 54911

appoints CASSIDY EVERS
(Name of Appointed Agent)

742 W. PROSPECT AVE APPLETON WI 54914
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 14 YRS

Place of residence last year 742 W. PROSPECT AVE APPLETON WI 54914

For: FOX RIVER HOUSE
(Name of Corporation / Organization / Limited Liability Company)

By: Cassidy Evers
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, CASSIDY EVERS, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Cassidy Evers 12/15/21
(Signature of Agent) (Date)

742 W. PROSPECT AVE APPLETON WI 54914
(Home Address of Agent)

Agent's age 30

Date of birth 01/15/91

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)



Community and Economic Development

**Transfer of Special Use Permit #17-03
211 South Walnut Street
Zoning Classification: C-2 General Commercial District**

Date: January 3, 2022

Background:

Special Use Permit #17-03 was approved for a tavern with an outdoor patio with alcohol sales located at 211 South Walnut Street. This special use permit runs with the land.

On-going Condition of Special Use Permit #6-14:

- a) All City of Appleton and State of Wisconsin Building Codes must be met.
- b) Any expansion of the tavern use requires a premise description amendment of the existing liquor license from the Safety and Licensing Committee and Common Council.
- c) The serving and consumption of alcohol is limited to the first floor of the building and the fenced patio area. Any future expansion into the second floor, basement space, and/or rooftop of the building for the sale, serving, and/or consumption of alcohol will require a new Special Use Permit application to be applied for and approved.
- d) All City of Appleton Fire Codes must be met, and a fire inspection must be conducted prior to issuance of an occupancy permit.
- e) The applicant shall apply for and receive a sign permit from the City of Appleton Inspections Division prior to installing any additional or new signage on the building.
- f) A permanent fence, with an emergency exit, that meets all Building and Fire Codes, shall be installed prior to occupying the patio. Plans for this fence shall be reviewed and approved by the Police and Planning Departments prior to a fence permit being issued. The applicant shall apply for and receive a fence permit from the City of Appleton Inspections Division prior to installing the approved fence, with an emergency exit, around the patio area.
- g) The City of Appleton Noise Ordinance shall be complied with at all times.

h) A refuse container enclosure is required to be installed prior to issuance of an Occupancy Permit.

Analysis:

Based upon the above referenced information and the Liquor License Questionnaire dated December 15, 2021, appears to be consistent with the Special Use Permit #17-03. Therefore, Special Use Permit #17-03 is transferred to the applicant upon the issuance of the Liquor License to allow for the continued use of the premises subject to the conditions of SUP #17-03 being complied with.

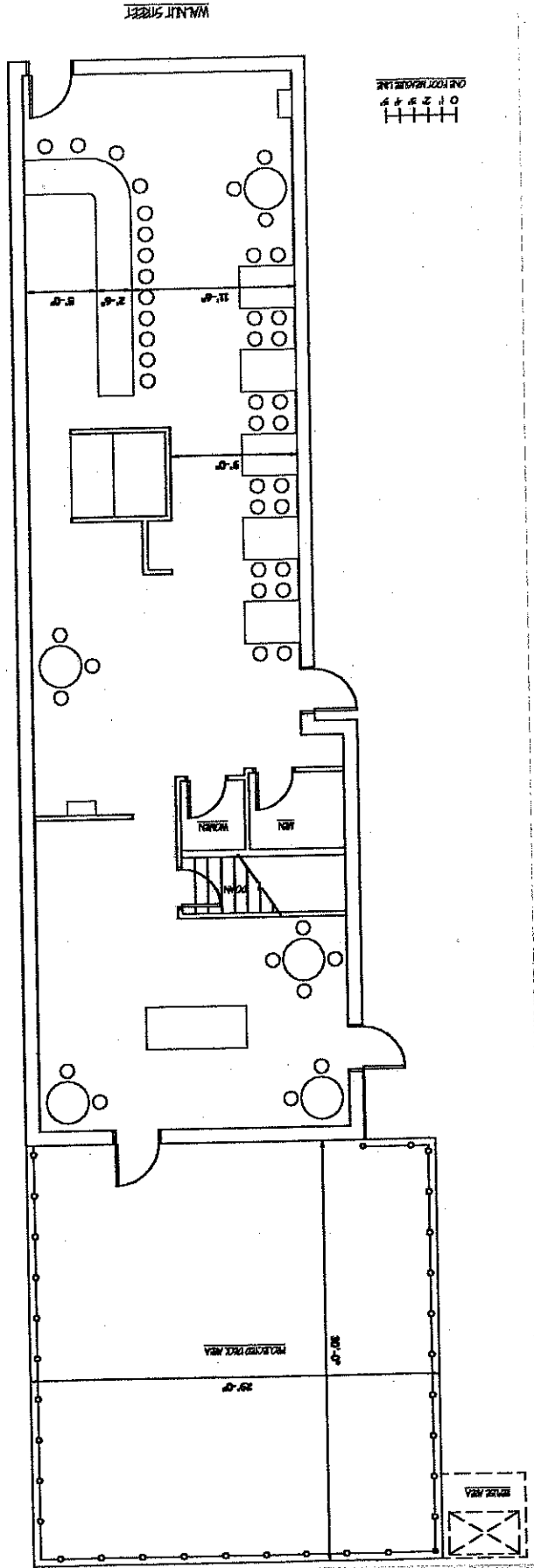
Please contact the Community and Economic Development Department at (920)832-6468 with any questions or any proposed changes to the development plan(s) or the alcohol license questionnaire.

Notes:

Fencing to be temporary until completion of parking lot. Then permanent fencing to be completed white in color.

Net BAR AREA (inside) = 1000 SQ FT.

Patio Area - wood picnic tables & Metal round tables w/ chairs



City Plan Commission
Appleton, Wisconsin
08-11-03

Special Use Permit
Tavern with outdoor seating

NTS
N
W ← → E
S
prepared by:

Confined Space Agreement

For good and valuable consideration, it is mutually agreed that the Appleton Fire Department (hereafter "AFD") will complete Confined Space Standby and Rescue to ***Purina Animal Nutrition, LLC*** (hereafter "Owner") at its facility located at ***1700 Bohm Drive, Little Chute, WI 54140*** (hereafter "Facility") during the period ***(January 1, 2022 to December 31, 2022)*** under the conditions specified in this agreement (hereafter "Agreement"). The Appleton Fire Department completes these activities in accordance with OSHA's Permit-Required Confined Space Standard (29 CFR 1910.146) and Wisconsin Department of Safety and Professional Services Chapter SPS 32. AFD will provide this service to Owner under the following conditions:

1. The Appleton Fire Department must be informed of all confined spaces in their classification (29 CFR 1910.146) at the facility. In addition, all information regarding potential hazards, SDS, and relevant information associated with these spaces must be shared (by the owners) per OSHA's Permit-Required Spaces Standard (29 CFR 1910.146).
2. The Appleton Fire Department must have the opportunity to train their personnel in confined space rescue in any of these spaces if such training is deemed necessary prior to providing actual standby services.
3. If the Appleton Fire Department determines that certain specific rescue equipment may be needed, and AFD does not currently own such equipment, Owner shall either purchase or temporarily lease such equipment for AFD's potential use. This purchased equipment will be stored and maintained by your facility.
4. Any confined space equipment (owned by the Appleton Fire Department) that has been damaged or rendered unusable during a confined space rescue or rescue training at the facility shall be repaired at Owner's cost or, if the equipment may not be repaired, Owner shall be responsible for the replacement cost of new equipment.
5. A preplan survey and drawing of the facility will be supplied by Owner. This preplan survey and drawing will be completed per Appleton Fire Department's guidelines and kept on file at the Appleton Fire Department. This preplan will be reviewed and updated by Owner as needed to help better facilitate confined space rescues.
6. The facility is required to meet all components of OSHA's Permit-Required Confined Space Entry Standard (29 CFR 1910.146).
7. Owner shall provide the Appleton Fire Department with any history of accidents, injuries, or fatalities, which occurred within any confined spaces found in the facility since it has been in operation.
8. The numbers of rescuers needed to facilitate a confined space standby and/or rescue at the facility will be the decision of the Appleton Fire Department.
9. Owner shall be responsible for all costs incurred in having the Appleton Fire Department standby at the facility. Costs shall be determined as follows:

Costs shall be determined to include all personnel and equipment costs incurred by AFD and the City of Appleton as a result of any service rendered to the Owner and/or Facility as set forth in paragraph 16. In addition, Owner shall pay AFD an annual nonrefundable contract administration fee of Three Hundred Dollars (\$300) with said amount being due at the time the Agreement is executed. Thereafter said amount shall be due within ten (10) days of the Agreement's annual anniversary as long as the Agreement is in effect.

10. All confined spaces must be appropriately marked accordingly to OSHA 29 CFR 1910.146.
11. When the Owner learns of any changes of confined spaces within the facility, it shall promptly notify the Appleton Fire Department in writing (through the pre-plan survey and drawing process).
12. The Appleton Fire Department will provide a written plan, for the stand-by services provided, upon request.
13. This agreement may be terminated by either party upon 10 days written notification to the other party.

Confined Space Rescues

In addition to the foregoing, the parties also agree as follows:

14. The Appleton Fire Department must be notified at least 10 days previous to all non-emergency IDLH (Immediately Dangerous to Life and Health) confined space entries made at your facility. The Appleton Fire Department Confined Space Rescue Team will complete confined space standby operations in accordance with this Agreement.
15. The Appleton Fire Department must be notified as soon as possible for all emergency IDLH (Immediately Dangerous to Life and Health) confined space entries made at your facility. The Appleton Fire Department Confined Space Rescue Team will attempt to complete confined space standby operations in accordance with this agreement (due to the limited notification process).
16. All confined space standby operations for IDLH entries will be charged at the current hourly rate for Appleton confined space rescue personnel and the FEMA rate for equipment and vehicle use. The number of Appleton rescue personnel used for confined space standby personnel will be at the discretion of the Appleton Fire Department and may vary depending on each situation.
17. If an emergency occurs elsewhere while an IDLH entry at the Facility is taking place, and AFD is standing by, AFD reserves the right to terminate the confined space standby operation in order for AFD to respond to the other emergency.

Additional Provisions

I. Indemnification

For good and valuable consideration, and to the fullest extent allowable by law, Owner hereby indemnifies and shall defend and hold harmless the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers and each of them from and against any

and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature whether arising before, during, or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Owner or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of the Agreement. Owner's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the sole fault, sole negligence, or willful misconduct of the City of Appleton, or its elected and appointed officials, officers, employees or authorized representatives or volunteers. This indemnity provision shall survive the termination or expiration of this Agreement.

In any and all claims against the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers by an employee of Owner, any subcontractor, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Owner or any subcontractor under Worker's Compensation Acts, Disability Benefit Acts, or other employee benefit acts.

No provision of this Indemnification clause shall give rise to any duties not otherwise provided for by this Agreement or by operation of law. No provision of this Indemnity clause shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers under this or any other contract. This clause is to be read in conjunction with all other indemnity provisions contained in this Agreement. Any conflict or ambiguity arising between any indemnity provisions in this Agreement shall be construed in favor of indemnified parties except when such interpretation would violate the laws of the State of Wisconsin.

Owner shall reimburse the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Owner's obligation to indemnify shall not be restricted to insurance proceeds, if any received by the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

II. Laws, Regulations and Permits

The Owner shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the project. The Owner shall also be liable for all violations of the law in connection with work furnished by the Owner.

Safety & Security – The Owner shall execute and maintain its work so as to avoid injury or damage to any person or property. The Owner shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds or work.

In carrying out its work, the Owner shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulations requirements. Safety precautions, as applicable, shall include but not be limited to: adequate life protection and lifesaving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space

procedures, trenching and shoring, fall protection, and other safety devices, equipment wearing apparel as are necessary or lawfully required to prevent accidents, injuries or illnesses; and adequate facilities for the proper inspection and maintenance of safety measures.

III. Insurance Requirements

A. Unless otherwise specified in this Agreement, the Owner shall, at its sole expense, maintain in effect at all times during the performance of the Work, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

- Commercial General Liability coverage at least as broad as Insurance Services Office (ISO) Commercial General Liability Form with the following minimum limits and coverage:
 - Each occurrence limit..... \$1,000,000
 - Personal and Advertising Limit \$1,000,000
 - General Aggregate Limit \$2,000,000
 - Fire Damage Limit (Any One Fire) \$50,000
 - Medical Expense Limit (Per Person) (self-insured) \$5,000

- Automobile Liability coverage at least as broad as Insurance Services Office Business Automobile Form with \$1,000,000 minimum limits combined single limit per accident for bodily injury and property damage, provided on a “Any Auto” basis.

- Worker’s Compensation as required by the State of Wisconsin and employer’s liability insurance with sufficient limits to meet underlying umbrella liability insurance requirements.

- Umbrella Liability coverage at least as broad as the underlying Commercial General Liability, Automobile Liability and Employers Liability:
 - Minimum limit each occurrence \$2,000,000
 - Aggregate..... \$2,000,000

B. Required Provisions – The general liability, automobile liability and umbrella liability policies are to contain, or be endorsed to contain, the following provisions:

- 1) The City of Appleton, and its officers, Council members, agents, employees and authorized volunteers must be named as additional insureds on all Owner liability policies. This does not apply to Worker’s Compensation Policies.

- 2) For any claims related to this project, Owner’s insurance shall be primary insurance as respects the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self- insurance, or other coverage maintained by the City of Appleton, its elected and appointed officials, officers, employees, or authorized representatives or volunteers shall not contribute to it.

- 3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Appleton, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

- 4) Owner's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - 5) Such liability insurance shall indemnify the City of Appleton, its elected and appointed officials, officers, employees of authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Owner for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.
 - 6) The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability with a minimum of a 24-month policy extension, explosion, collapse, underground excavation, and removal of lateral support, and shall not contain an exclusion for what is commonly referred to by the insurers as the "XCU" hazards.
 - 7) All of the insurance shall be provided on policy forms and through companies satisfactory to the City of Appleton and shall have a minimum A.M. Best's rating of A-VII.
- C. Evidences of Insurance – Prior to execution of the agreement, Owner shall file with the City of Appleton a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

SIGNATURES ARE CONTAINED ON THE FOLLOWING PAGE

**Owner of Permit – Required Confined Space
Purina Animal Nutrition, LLC**

By: _____
Printed Name: _____
Title: _____
Date: _____

Witness: _____
Printed Name: _____
Date: _____

By: _____
Printed Name: _____
Title: _____
Date: _____

Witness: _____
Printed Name: _____
Date: _____

Appleton Fire Department

By: _____
Jacob A. Woodford, Mayor


By: _____
Kami Lynch, City Clerk


Approved as to form:


Christopher R. Behrens, City Attorney
CL A21-0029

CITY OF APPLETON

FIRE DEPARTMENT

 700 N. Drew Street
Appleton, WI 54911

 (920) 832-5810

 (920) 832-5830

 jeremy.hansen@appleton.org

MEMORANDUM

January 8, 2022

To: Katie Van Zeeland, Chair – Safety & Licensing Committee and Common Council
From: Jeremy Hansen, Fire Chief
Cc: Ryan Weyers, Deputy Fire Chief
Re: Request to enter a contract with Purina Animal Nutrition, LLC for confined space services

The Appleton Fire Department (AFD) has extensive training and expertise in confined space entry and rescue. The AFD, in partnership with Purina Animal Nutrition, LLC., located in Little Chute, WI, desire to finalize a service contract that will support confined space training, entry stand-by, and emergency response.

The service contract was created with input from the Legal Services and Risk Management Departments of the City of Appleton. Some key points of the contract are:

- The AFD will receive \$300 per year to administer the contract.
- All costs will be reimbursed making it budget neutral.
- As required by OSHA of Purina, annual confined space rescue drills would be held at Purina.
- Members of the AFD will perform annual training in real-world venues and locations.
- Without the contract, the City of Appleton could not recover costs associated with a mutual aid request.

The contract covers emergency response and standby operations during scheduled confined space entries by Purina employees to support their operations. In the event of an emergency, AFD would be requested by the Authority Having Jurisdiction (AHJ), Little Chute Fire Department, and AFD would work under the command of the Little Chute Fire Department. This is mutually understood between both fire departments.

In the event of a confined space stand by, AFD will hire staff on overtime to be on site with an appropriate equipment to provide the service, as defined by OSHA, and required of Purina for this type of work. This service will not impact our daily staffing or the response capability in the City of Appleton

Lastly, this contract has a provision to be revoked at any time by either party.

If you have any questions or concerns, please do not hesitate to contact me at (920) 832-5810. Thank you for your consideration.



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Special Use Permit #4-21 for restaurant with alcohol sales and service

Case Manager: David Kress, Principal Planner

GENERAL INFORMATION

Owner: SNP Enterprises, LLC

Applicant: Alpine Swift c/o Adam Marty

Address/Parcel #: 1016 East Pacific Street (Tax Id #31-1-0843-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for alcohol sales and service in conjunction with a restaurant.

BACKGROUND

The subject area is located at the northeast corner of East Pacific Street and North Tonka Street. Based on Assessor's Office records, personal services (photography studio) was the previous use of the property. The applicant recently applied for a Liquor License that includes Class B beer and Class C wine, which is on track to go to Safety and Licensing Committee on January 12th and Common Council on January 19th.

On November 15, 2021, the Board of Zoning Appeals approved a variance for the subject property. The variance allows a restaurant with an occupancy of 30 persons to provide no off-street parking. A variance was previously approved by the Board of Zoning Appeals on August 20, 2007 to allow a photography studio at this location with one off-street parking space.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish a restaurant with alcohol sales and service on the subject site, which would occupy the existing building that is approximately 1,008 square feet in size. Based on the attached development plan, this request will not increase existing building area. Per the Inspections Division, 30 persons (including staff) would be the maximum number of occupants for the space.

Operational Information: A plan of operation is attached to the staff report.

Outdoor Seating Area: No outdoor alcohol sales and service is requested with this application.

Existing Site Conditions: The existing single-story building totals approximately 1,008 square feet on the ground floor. The 0.03-acre site also includes a paved driveway east of the building, with a curb cut on East Vine Street.

Special Use Permit #4-21
January 12, 2022
Page 2

Current Zoning and Procedural Findings: The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, a restaurant with alcohol sales and service requires a Special Use Permit in the C-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally residential in nature.

North: R-1C Central City Residential District. The adjacent land uses to the north are currently single-family residential.

South: R-2 Two-Family District and R-1C Central City Residential District. The adjacent land uses to the south are currently a mix of duplexes and single-family residential.

East: R-1C Central City Residential District and R-2 Two-Family District. The adjacent land uses to the east are currently a mix of single-family residential and duplexes.

West: R-1C Central City Residential District. The adjacent land uses to the west are currently single-family residential.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with goals and objectives found in the City's *Comprehensive Plan 2010-2030*. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.

Goal 8 – Economic Development

Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.

OBJECTIVE 9.5 Economic Development:

Encourage new development and redevelopment activities that create vital and attractive neighborhoods and business districts.

OBJECTIVE 10.2 Land Use:

Encourage redevelopment to meet the demand for a significant share of future growth, and to enhance the quality of existing neighborhoods.

Chapter 14 Downtown Plan, Initiative 3 Neighborhood and Residential Development:

Strategy 3.3 – Promote development of neighborhood serving businesses and amenities to meet the basic shopping and service needs of downtown and nearby residents.

Technical Review Group (TRG) Report: This item appeared on the December 7, 2021 TRG agenda.

- Inspections Division Comments: Had a chance to work with the applicant on total occupants. We determined based on code allowances that 30 would be the maximum for the space. That number includes his staff.
- Police Department Comments: There is parking available on Pacific Street eastbound and one side of Tonka Street and Vine Street; however, they will need to be aware of the possibility of patrons parking too close to driveways. On-street parking rules are as follows: Must be within one foot of the curb; Must stay four feet away from the driveway apron; Must have two feet between cars; Must be ten feet away from fire hydrant; Must be fifteen feet from a crosswalk.

Zoning Ordinance Requirements and Substantial Evidence: When reviewing an application for a Special Use Permit, the City must determine if the applicant’s proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means “facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion.” Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

Section 23-172(m) of the Municipal Code requires a minimum number of off-street parking spaces based on the use of a property. In this case, however, the Board of Zoning Appeals approved a variance that allows a restaurant with an occupancy of 30 persons to provide no off-street parking. Therefore, off-street parking spaces are not required for the applicant’s request.

Finding of Fact: This request was reviewed in accordance with the standards (proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services) for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street (Tax Id #31-1-0843-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.

Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.

2. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

3. The site shall be kept free of litter and debris.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

4. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

5. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.

6. This Special Use Permit is needed for on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.

Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.

**CITY OF APPLETON
RESOLUTION FOR SPECIAL USE PERMIT #4-21
RESTAURANT WITH ALCOHOL
1016 EAST PACIFIC STREET**

WHEREAS, Adam Marty, Alpine Swift, has applied for a Special Use Permit for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-0843-00; and

WHEREAS, the location for the proposed restaurant with alcohol sales and service is located in the C-2 General Commercial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on January 12, 2022 on Special Use Permit #4-21, at which all those wishing to be heard were allowed to speak or present written comments and other materials at the public hearing; and

WHEREAS, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department's staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #4-21 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

WHEREAS, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on January 19, 2022.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Common Council, based on Community and Economic Development Department's staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing and Common Council meeting, and having considered the recommendation of the City Plan Commission, that the Common Council:

1. Determines all standards listed under Sections 23-66(e)(1-8) of the Municipal Code are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-0843-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)
3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #4-21 for a restaurant with alcohol sales and service located at 1016 East Pacific Street, also identified as Parcel Number 31-1-

0843-00, subject to the following conditions as they are related to the purpose of the City of Appleton Municipal Code and based on substantial evidence:

CONDITIONS OF APPROVAL FOR SPECIAL USE PERMIT #4-21

- A. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - B. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
 - C. The site shall be kept free of litter and debris.
 - D. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
 - E. The serving and consumption of alcohol is limited to the interior ground floor of the building, as identified on the attached development plan drawings. Any future expansions for the serving and/or consumption of alcohol may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
 - F. This Special Use Permit is needed for on-site alcohol sales and consumption. Compliance with the plan of operation is required at all times. Changes to the plan of operation, including any future changes to the agent/operator, shall be submitted to the Community and Economic Development Department for review and approval.
4. The City Clerk’s Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this _____ day of _____, 2022.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

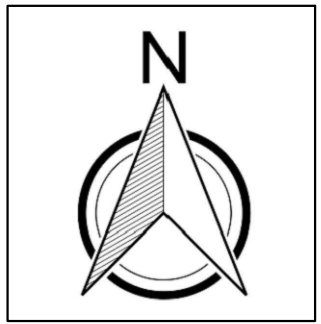
SITE PLAN

1016 E Pacific Street
Appleton, WI 54911

Parcel ID: 31-1-0843-00

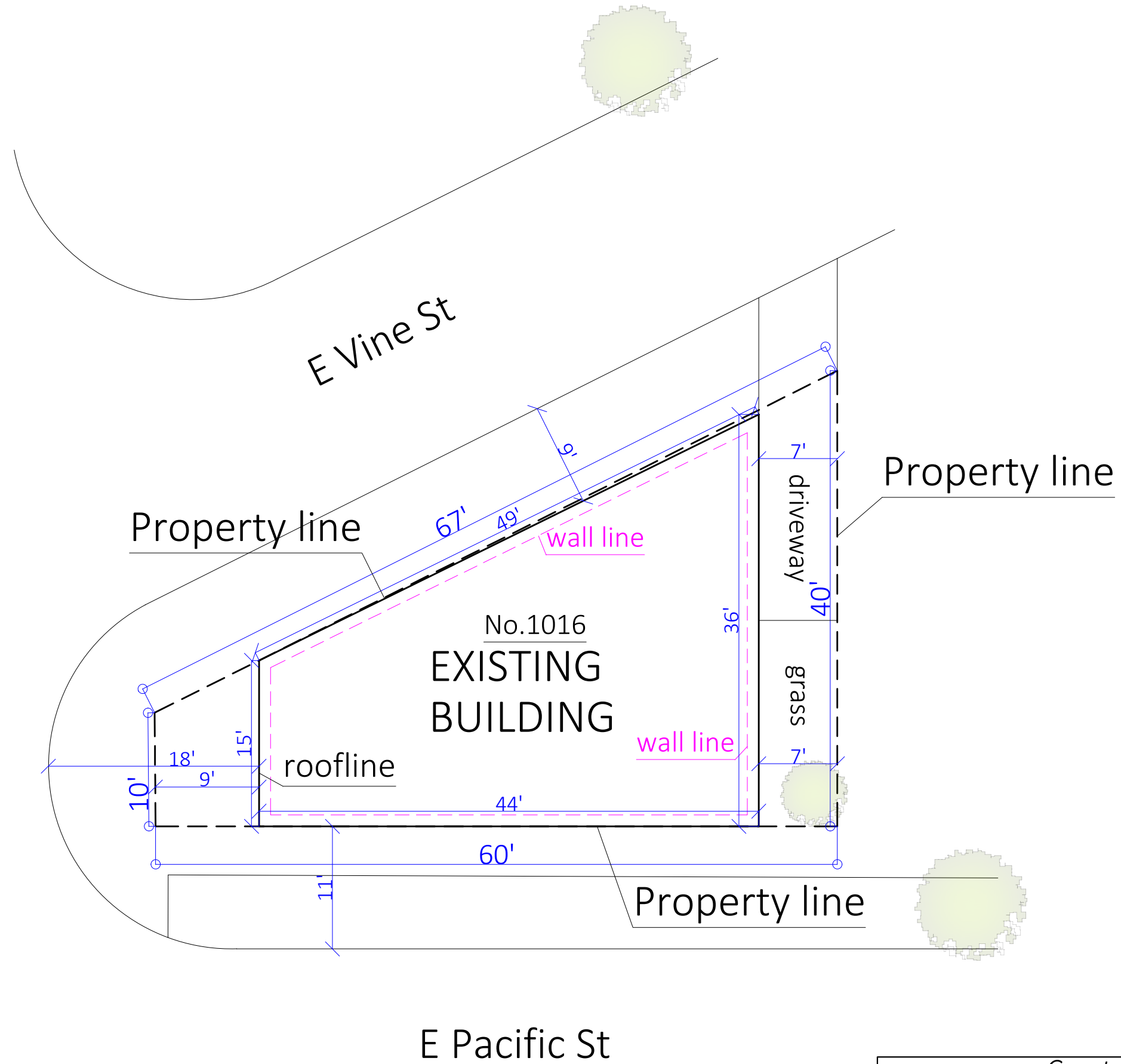
Lot area: 0.03 Acres

Plot Size: 11"x17"



scale 1"=10'

N Tonka St

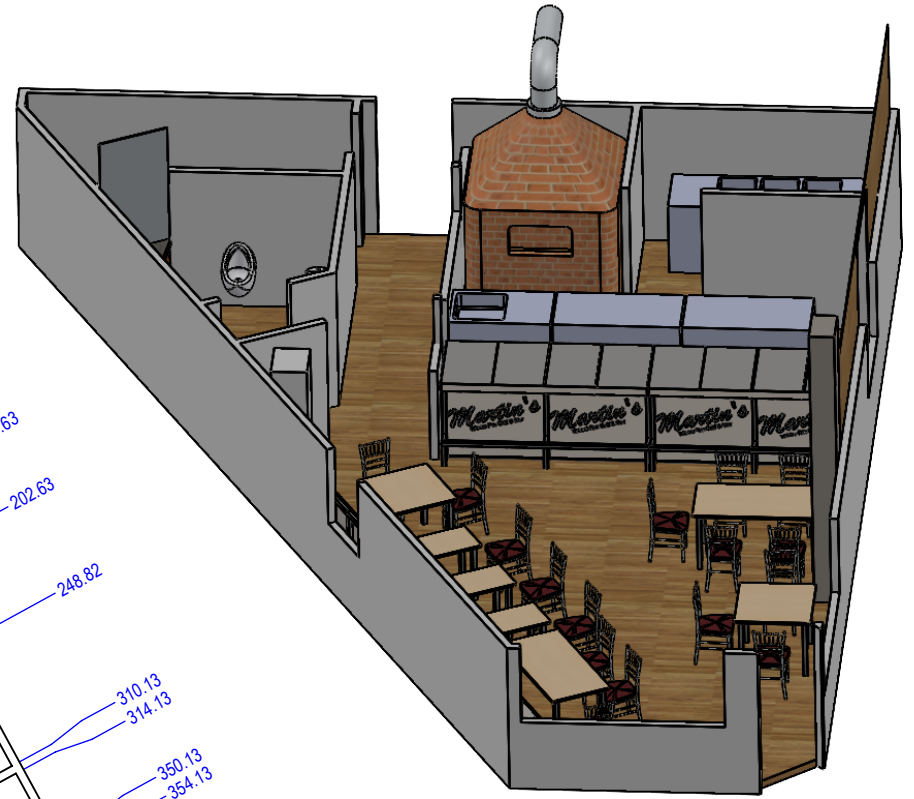
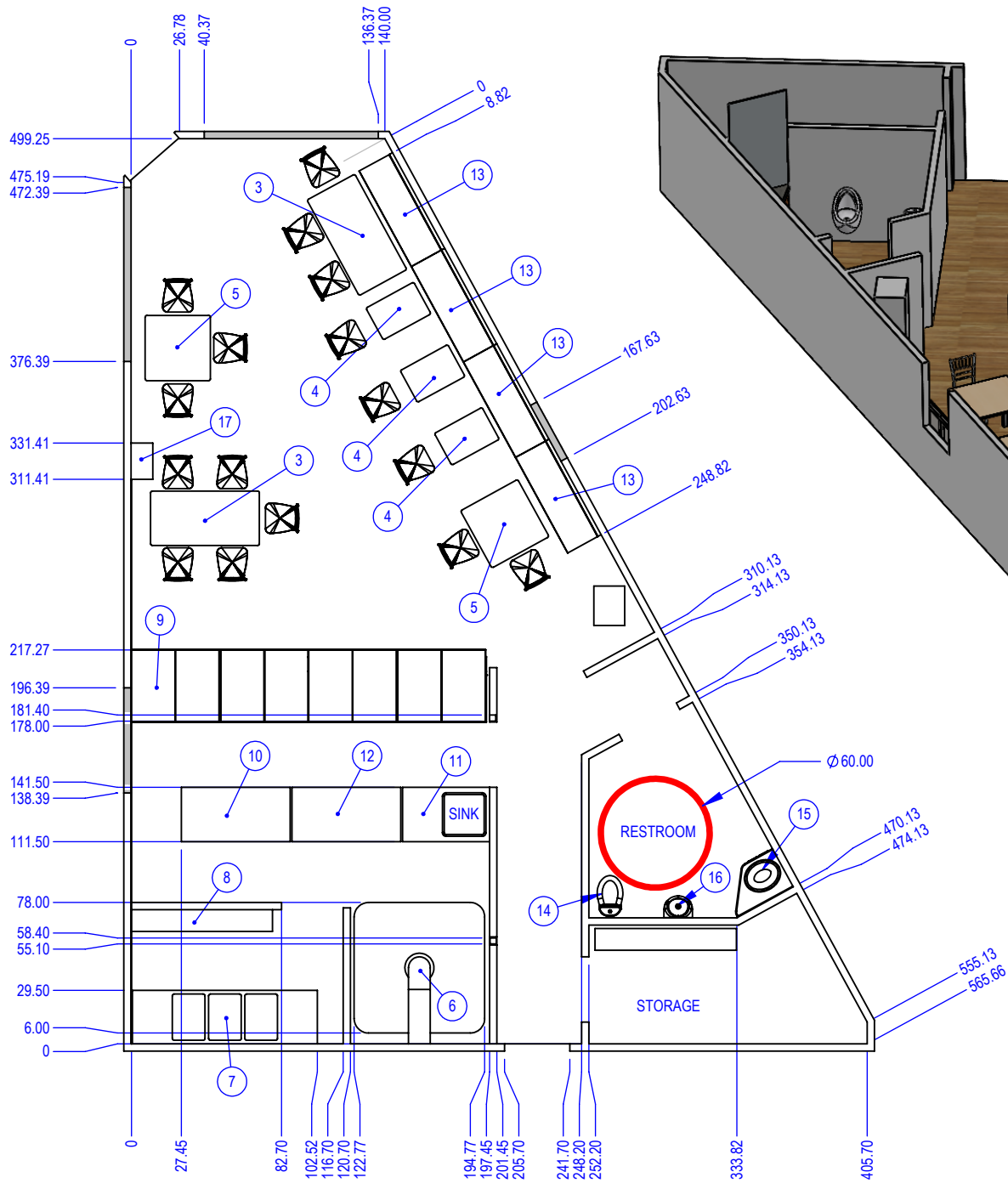


E Pacific St

Created by:



ITEM NO.	DESCRIPTION	QTY
1	FLOOR BASE	1
2	WALLS	1
3	TABLE ASSEMBLY 60X30	2
4	TABLE ASSEMBLY 30X20	3
5	TABLE ASSEMBLY 36X36	2
6	OVEN	1
7	TRIPPLE SINK	1
8	SHELVING	2
9	BAR ASSEMBLY	1
10	WORK TABLE - 60 X 30	1
11	WORK TABLE - 48 X 30	1
12	COOLER - 60 X 30	1
13	BENCH ASSEMBLY	2
14	TOILET	1
15	BATHROOM SINK	1
16	URINAL	1
17	AIR DUCT	1
18	WOOD PANEL WALL	1



JD Industries LLC
 4330 Zane Ave N.
 Crystal, MN 55422
 justin@jd-industries.com

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Unless Otherwise Stated:
 Linear Tol.: ±0.005", Angular Tol.: 1°
 Surface Finish: 0.8µm
 All Dimensions: INCHES

Scale: 1:90
 Sheet: 1 of 1
 Sheet Size: A4



Third Angle
 Config: Default
 Weight: 70108.0
 65

Title **Building Assembly**
 Assembly:
 Location: D:\OneDrive\Solidworks\Martin's\FloorPlan\

Part No.: **NA**

Client:
 Updated: 10/13/2021
 Drawn By: justin
 Drawn Date: 8/20/2021
 Revision: 0

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of business: Alpine Swift

Years in operation: 0

(Check applicable proposed business activity(s) proposed for the premises)

- Restaurant
- Tavern/Night Club/Wine Bar
- Painting/Craft Studio
- Microbrewery/Brewpub (manufacturing a total of not more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- Brewery (manufacturing a total of more than 310,000 U.S. gallons of fermented malt beverages per calendar year)
- Winery (manufacturing of wine)
- Craft-Distillery (manufacturing a total of not more than 100,000 proof gallons of intoxicating liquor per calendar year)
- Distillery (manufacturing a total of more than 100,000 proof gallons of intoxicating liquor per calendar year)
- Tasting room offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.
- Other _____

Detailed explanation of proposed business activities:

We propose to open a community based restaurant serving Pizza, Shareables, Salads and dessert. We plan to be open 4 days a week serving Beer and wine only.

Existing gross floor area of building/tenant space, including outdoor spaces:

(square feet) 1000

Proposed gross floor area of building/tenant space, including outdoor spaces:

(square feet) no change

Occupancy limits:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 30 persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	4 pm	9 pm
Friday	4 pm	10 pm
Saturday	4 pm	10 pm
Sunday	Closed	Closed

Production/Storage information:

(Check applicable proposed business activity(s) proposed for the premises)

- Current production of fermented malt beverages: _____ U.S. gallons per year
- Proposed production of fermented malt beverages: _____ U.S. gallons per year
- Current production of wine: _____ U.S. gallons per year
- Proposed production of wine: _____ U.S. gallons per year
- Current production of intoxicating liquor: _____ proof gallons per year
- Proposed production of intoxicating liquor: _____ proof gallons per year
- None. If none, leave the following 2 storage questions blank.

Identify location of grains and/or juice, grapes, other fruits or other agricultural product storage and type of storage container(s) used:

Identify the storage location of spent grains and/or grapes, other fruits or other agricultural products and type of storage container(s) used:

Outdoor Space Uses:

(Check applicable outdoor space uses)

- Patio
- Deck
- Sidewalk Café
- Other _____

None. If none, leave the following questions in this section blank.

Size: _____ square feet

Type of materials used and height of material to enclose the perimeter of the outdoor space:

Fencing Landscaping Other _____ Height _____ feet

Is there any alcohol consumption incorporated within the outdoor facility? Yes No

If yes, please describe:

Are there plans for outdoor music/entertainment? Yes No

If yes, describe how the noise will be controlled:

Is there any food service incorporated in this outdoor facility proposal? Yes No

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Monday thru Thursday		
Friday		
Saturday		
Sunday		

NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):

******Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

A minimal exhaust fan noise

Describe how the crowd noise will be controlled inside and outside the building:

Staff will monitor crowd noise levels inside and outside premises.

Off-Street Parking:

Number of spaces existing on-site: 1

Number of spaces proposed on-site: 1

Street Access:

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

yes, street access is adequate to minimize impacts on traffic flow.

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

None

Number of Employees:

Number of existing employees: 1

Number of proposed employees: 5

Number of employees scheduled to work on the largest shift: 5



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Special Use Permit #5-21 for an indoor recreational use with alcohol sales and consumption

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner: CNR, LLC c/o Craig Weborg

Applicant: The Breaking Point c/o Courtney Hayden

Address/Parcel #: 2009 & 2011 N. Richmond Street (Tax Id #31-5-2326-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an indoor recreational use with alcohol sales and consumption.

BACKGROUND

The building was constructed in 1947 and the property contains a multi-tenant building with an off-street parking lot.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an indoor recreational use with alcohol sales and service on the subject site, which would occupy approximately 2,400 square feet of the existing multi-tenant building. The uses include rage rooms, splatter room, air soft target shooting and a small bar area.

Operational Information: A plan of operation is attached to the staff report.

Existing Site Conditions: The 15,571 square foot site is currently developed with a multi-tenant building, which is approximately 5,856 square feet in size. The site provides off-street parking on the east and west sides of the building, including parking provided on the adjacent parcel (Tax Id #31-5-2327-00). Access is provided by curb cuts on North Richmond Street and West Glendale Avenue.

Current Zoning and Procedural Findings: The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, an indoor recreational use that also includes alcohol sales and consumption requires a Special Use Permit in the C-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and residential in nature.

Special Use Permit #5-21

January 12, 2022

Page 2

North: C-2 General Commercial District. The adjacent land uses to the north are currently a mix of commercial uses.

South: C-2 General Commercial District. The adjacent land uses to the south are currently a mix of commercial uses.

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential.

West: M-2 General Industrial District. The adjacent land uses to the west are currently a mix of commercial uses.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Commercial designation shown on the City's *Comprehensive Plan 2010-2030 Future Land Use Map*. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.

Goal 8 – Economic Development

Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.

OBJECTIVE 9.4 Economic Development:

Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

OBJECTIVE 10.5 Land Use:

Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.

Technical Review Group (TRG) Report: These items appeared on the December 7, 2021 Technical Review Group agenda. The following comments were received from participating departments and have been incorporated into the Conditions of Approval:

- Police Department: *Ensure the applicant is willing/able to comply with our noise ordinances with their proposed business plan, specifically "Sec. 12-87. Radio or other electric sound amplification device – prohibited. No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet."*
- Fire Department: *Please note the occupant loads provided by the applicant have not been verified through review by a representative of a Fire Department. We recommend the applicant supply the FD with a WI occupant worksheet when they want these numbers posted, as required in the Municipal Ordinance, whenever food & drink is served. Appleton Fire will print the sign for posting.*

Zoning Ordinance Requirements and Substantial Evidence: When reviewing an application for a Special Use Permit, the City must determine if the applicant's proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion." Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

Finding of Fact: This request was reviewed in accordance with the standards (proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services) for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #5-21 for an indoor recreation use with alcohol sales and consumption located at 2009 & 2011 North Richmond Street (Tax Id #31-5-2326-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.

Substantial Evidence: Standardized condition to ensure the applicant understands the City's Municipal Code and all applicable State and Federal laws must be followed.

2. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.

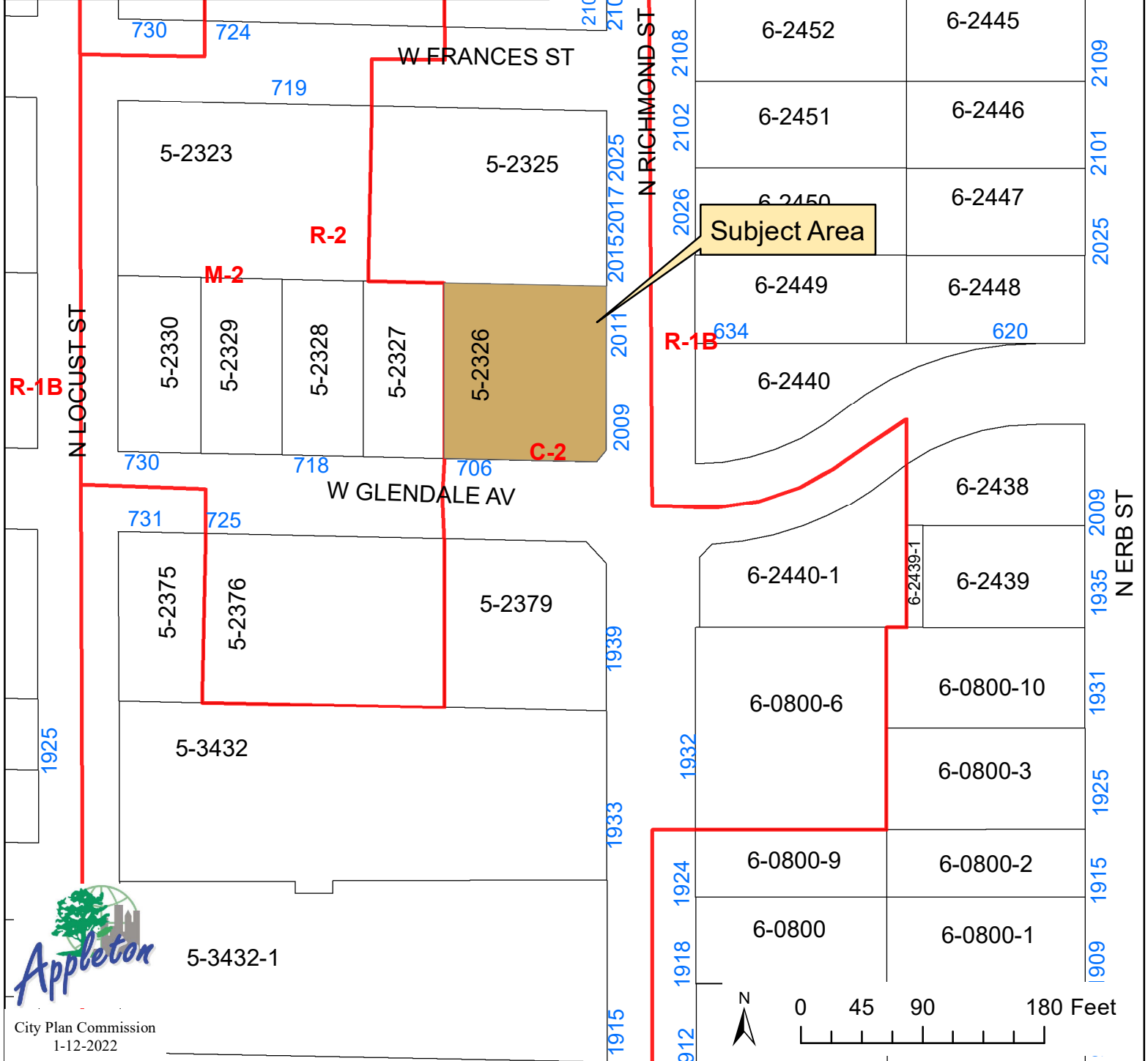
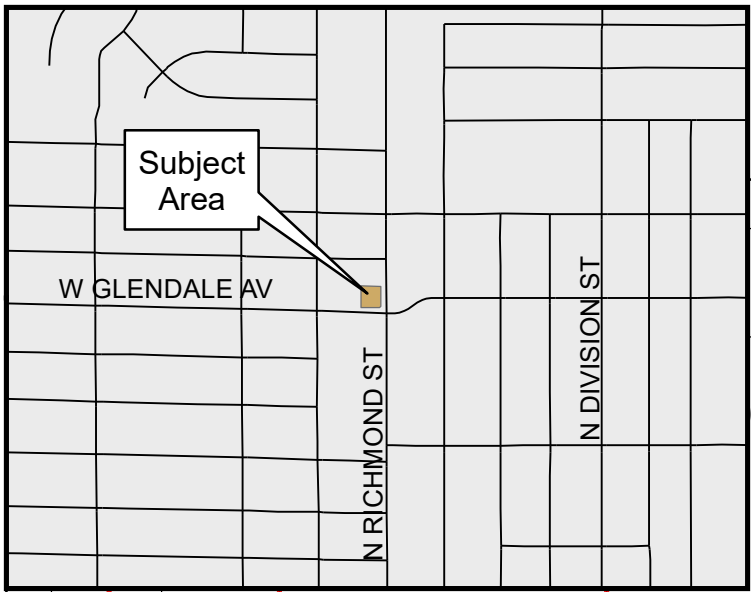
3. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.

Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.

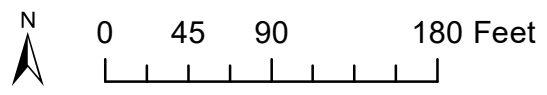
4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

Special Use Permit
Alcohol Sales and Consumption
The Breaking Point
2009 & 2011 N. Richmond Street
Zoning Map



Subject Area



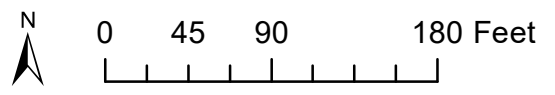
Special Use Permit
 Alcohol Sales and Consumption
 The Breaking Point
 2009 & 2011 N. Richmond Street
 Aerial Map



Subject Area



City Plan Commission
 1-12-2022



RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #5-21**

WHEREAS, Courtney Hayden, owner of The Breaking Point has applied for a Special Use Permit to allow alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, and

WHEREAS, the location for the proposed indoor recreational use with alcohol sales and service is located in the C-2 General Commercial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on January 12, 2022 on Special Use Permit #5-21 at which all those wishing to be heard were allowed to speak or present written comments and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department’s staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #5-21 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

WHEREAS, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on January 19, 2022.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Common Council, based on Community and Economic Development Department’s staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing and Common Council meeting, and having considered the recommendation of the City Plan Commission, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)

3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #5-21:

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
 - B. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
 - C. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - D. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
4. The City Clerk's Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this 19th day of January 2022.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: The Breaking Point LLC

(Check applicable proposed business activity(s) proposed for the building or tenant space)

- Restaurant
- Bar/Night Club
- Wine Bar
- Microbrewery
- Other amusement

Years in operation: 2 years

Percentage of business derived from food service: 0 %

Type of proposed establishment (detailed explanation of business operations):

amusement
2 rage rooms
1 paint splatter room, air soft target shooting
small beer/seltzer bar

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Days Monday thru Thursday	4pm	9pm
Friday	4pm	11pm
Saturday	11am	11pm
Sunday	closed	

Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 16-18 persons

Gross floor area of the existing building(s): 2,400

Gross floor area of the proposed building(s): 2,400

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

Mostly evening hrs (4pm-9pm)
On a noise scale from 1-10, I'd rate
our noise level a 5.

Describe how the crowd noise will be controlled inside and outside the building:

no anticipated outside crowds
Inside gatherings will be kept
to minimum

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

~~_____~~
~~_____~~
~~_____~~

Outdoor Space Uses:

(Check applicable proposed area)

- Patio
- Deck
- Sidewalk Café
- Other _____
- None

Size: _____ square feet.

Type of materials used and height of material to enclose the perimeter of the outdoor space:

Fencing Landscaping Other _____. Height _____ feet.

Is there any alcohol service incorporated within the outdoor space? Yes ___ No ___

Are there plans for outdoor music/entertainment? Yes ___ No ___

If yes, describe how the noise will be controlled:

Is there any food service incorporated within the outdoor space? Yes ___ No ___

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Week Days: Monday thru Thursday		
Friday		
Saturday		
Sunday		

NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):

******Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

Off-Street Parking:

Number of spaces existing: 30

Number of spaces proposed: 30

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

~~Bark at the Moon - dog grooming~~
~~Just Pets - pet store~~

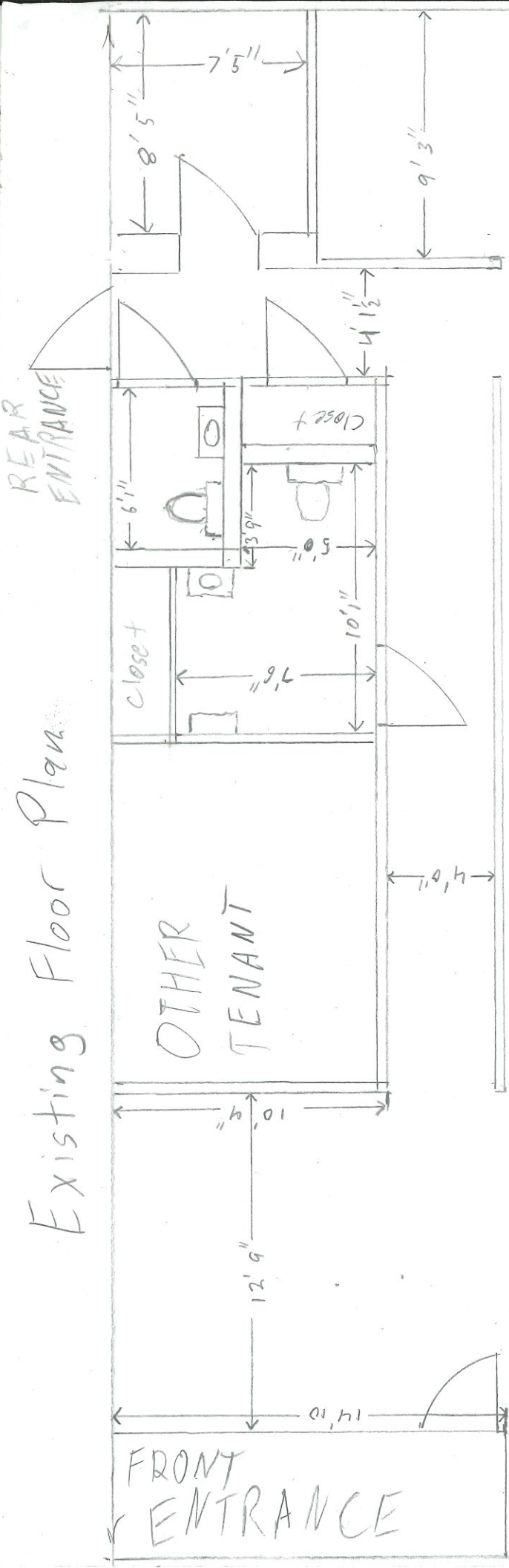
Number of Employees:

Number of existing employees: 4

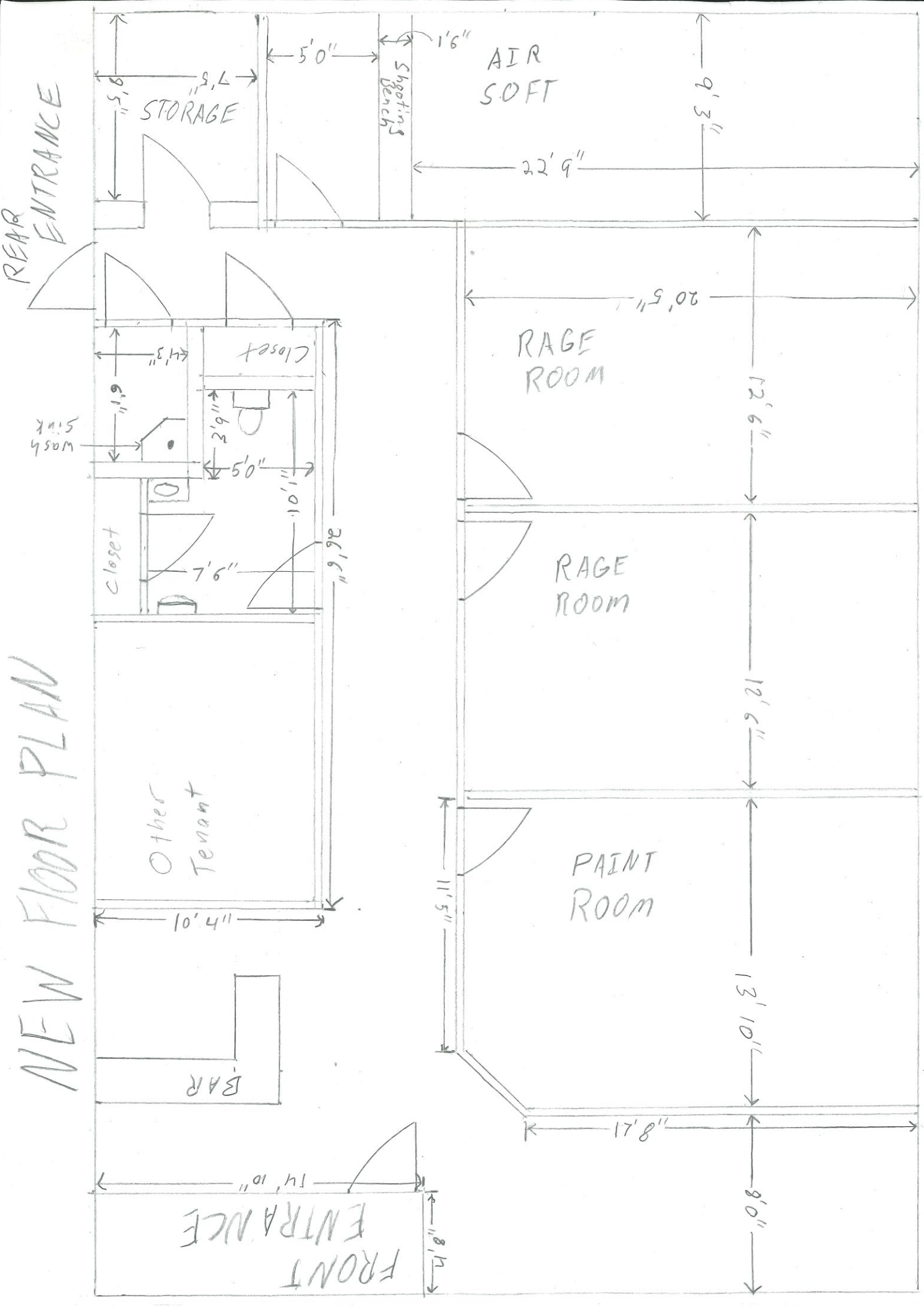
Number of proposed employees: 4

Number of employees scheduled to work on the largest shift: 4

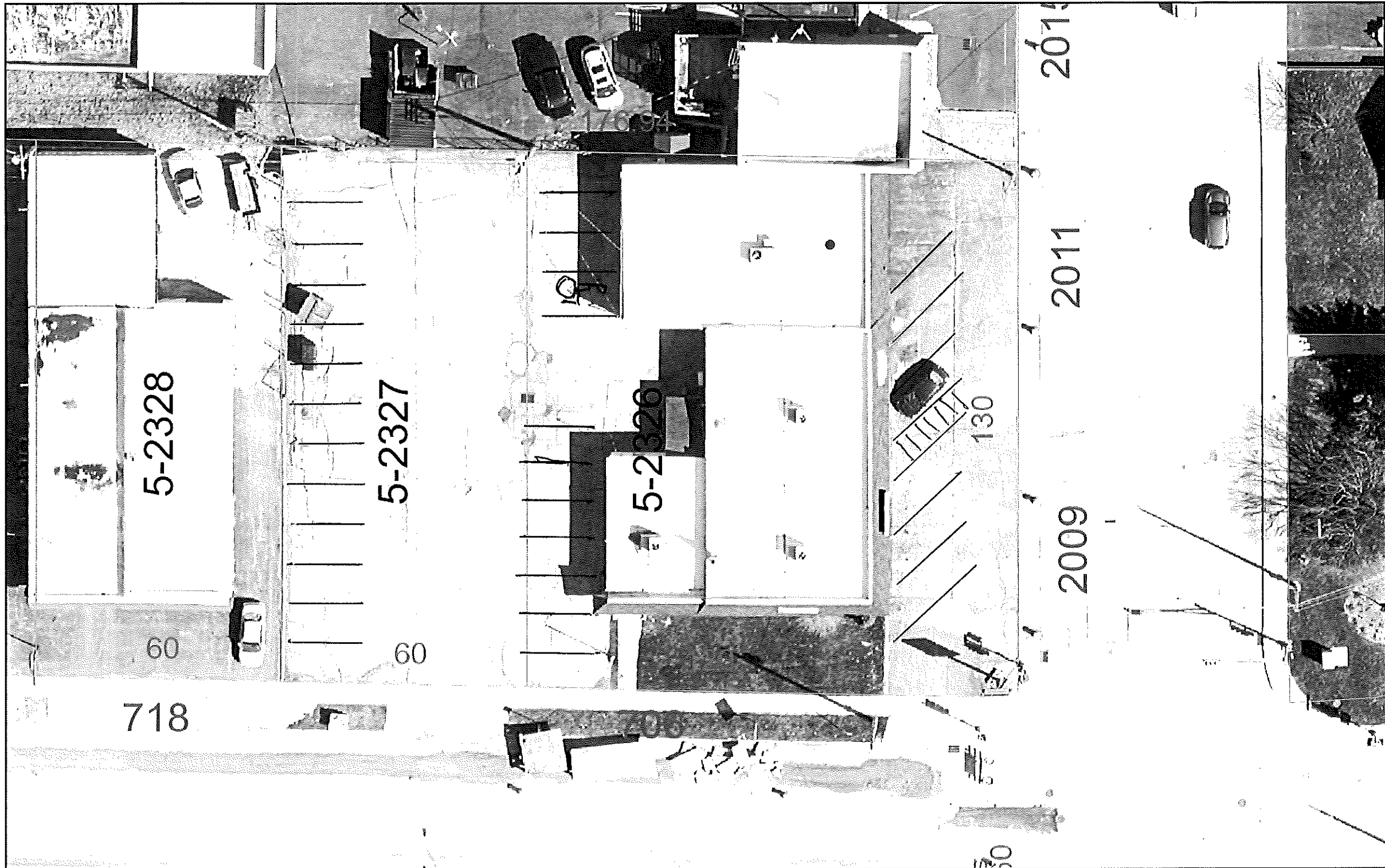
Existing Floor Plan



NEW FLOOR PLAN



ArcGIS Web Map



11/29/2021, 10:39:01 AM

City Limits City Parcels Easements

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Preliminary Plat – Stone Ridge Estates West

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Applicant: Michael J. Frank, Schuler & Associates, Inc.

Owner: Cypress Homes, Inc.

Address/Parcel #: N. Haymeadow Avenue (Tax Id #31-6-5802-02). The subject property is located south of East Clearfield Lane and west of North Haymeadow Avenue.

Petitioner's Request: The owner/applicant is proposing to subdivide property for single-family residential development.

BACKGROUND

On June 19, 2019, Common Council adopted Ordinance 68-19, to annex the subject area from the Town of Grand Chute to the City of Appleton. The subject property was officially annexed to the City on June 25, 2019 at 12:01 a.m.

On July 24, 2019, the Common Council approved the request to rezone the subject property from Temporary AG Agricultural District to R-1B Single-Family District.

CSM #20-19 created the subject parcel and was approved by staff on January 2, 2020. The dedication of public right-of-way for North Haymeadow Avenue (adjacent to the subject property) was approved by the Common Council on December 18, 2019.

STAFF ANALYSIS

Existing/Proposed Conditions: The subject area to be subdivided is currently undeveloped. Stone Ridge Estates West consists of 3.88 acres and will be divided into ten (10) single-family lots.

Zoning Ordinance Review Criteria: R-1B Single-Family District lot development standards (Section 23-93) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
 - *The proposed average lot size is 15,904 square feet. All lots exceed this minimum requirement.*

Preliminary Plat – Stone Ridge Estates West

January 12, 2022

Page 2

- Minimum lot width: Fifty (50) feet.
 - *All lots exceed this minimum requirement, with exception of Lot 8. Please see the “Compliance with Appleton Subdivision Regulations” section below. The applicant has requested a Modification of Regulations per Section 17-3(f) of the Subdivision Code. Lot 8 meets the minimum lot width standard at the building setback line.*
- Minimum front, side and rear yard setbacks: Twenty (20) foot front yard, Six (6) foot side yard, and Twenty-five (25) foot rear yard.
 - *Required front yard setback has been shown on the Preliminary Plat. Required setbacks will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
 - *This will be reviewed through the building permit review process.*
- Maximum lot coverage. Fifty percent (50%).
 - *This will be reviewed through the building permit review process.*

Compliance with the Appleton Subdivision Regulations: This subdivision complies with the Appleton Subdivision Regulations, except for the code sections listed below.

Proposed lot width for Lot 8 is 40 feet at the right-of-way line, 50 feet is required per Section 17-3(c)(6) and Section 23-93(g)(3) of the Municipal Code. The modification allows for a reduction of lot width at the right-of-way line from 50 feet to 40 feet. *Note: Per Section 23-22, lot width for a lot abutting a cul-de-sac or curved street is measured at the front setback line. Due to the existing angled alignment of Haymeadow Avenue, Lot 8 is shaped similar to a lot adjacent to a cul-de-sac. Lot 8 is 90 feet wide at the 20 foot front setback line and complies with all other applicable development standards.*

Pursuant to Section 17-3(f) of the Municipal Code, when the Common Council finds that extraordinary hardship or injustice will result from strict compliance with this ordinance, it may vary the terms thereof to the extent deemed necessary and proper to grant relief, provided that the modification meets the following three standards:

- (1) The modification is due to physical features of the site or its location.
- (2) The modification is the least deviation from this ordinance which will mitigate the hardship.
- (3) The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this ordinance.

Based upon the above analysis, it would appear the standards established by Section 17-3(f) Modification of Regulations have been met.

Access and Traffic: The primary vehicular access to Stone Ridge Estates West is via North Haymeadow Avenue and East Stratford Lane. The road right-of-way for proposed East Stratford Lane will be dedicated to the City with the Final Plat.

Preliminary Plat – Stone Ridge Estates West

January 12, 2022

Page 3

Surrounding Zoning and Land Uses:

North: R-1B Single Family Residential. The adjacent land use to the north is currently residential.

South: Town of Grand Chute. The adjacent land use to the south is currently agriculture.

East: R-1A Single Family Residential. The adjacent land use to the east is currently single-family residential.

West: Town of Grand Chute. The adjacent land use to the west is currently single-family residential.

2010-2030 Comprehensive Plan: Community Development staff has reviewed this proposed subdivision and determined it is compatible with the One and Two-Family Residential use shown on the City's 2010-2030 Comprehensive Plan Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.

Goal 3 – Housing Quality, Variety, and Affordability

Appleton will provide a variety of rental and ownership housing choices in a range of prices affordable to community residents, and ensure that existing housing is adequately maintained in terms of physical quality and market viability.

OBJECTIVE 10.1 Land Use:

Provide an adequate supply of suitable land meeting the demand for development of various land uses.

OBJECTIVE 10.4 Land Use:

Plan for compact, efficient, and fiscally responsible growth of residential, commercial, and industrial development in new neighborhoods in order to implement the principles of smart growth.

Policy 10.4.1 Continue to guide residential growth to locations either contiguous to or within presently urbanized areas. As peripheral development occurs, it should be at a compact, urban density to ensure new neighborhoods can be efficiently served by public infrastructure.

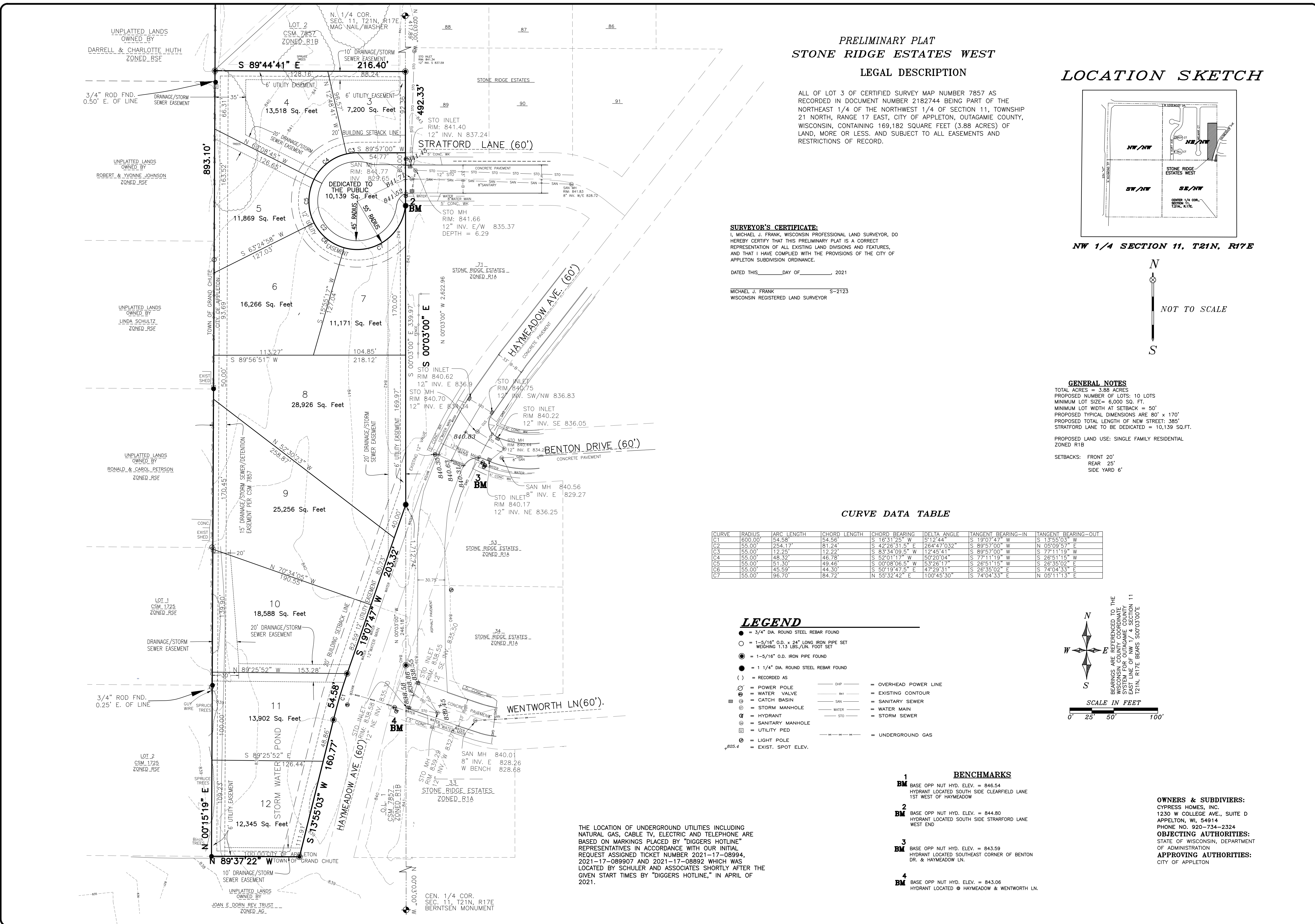
Parks and Open Space: The Appleton Subdivision Regulations do require parkland dedication or fee in lieu for residential subdivisions. Since no parkland will be dedicated on the subject property, park fees will be due prior to the City signing the Final Plat. For lots zoned R-1B Single-Family District, park fees are \$300 per lot.

Technical Review Group Report (TRG): This item appeared on the December 7, 2021 TRG Agenda. No negative comments were received from participating departments.

RECOMMENDATION

The Preliminary Plat for Stone Ridge Estates West, **BE APPROVED** subject to the following conditions and as shown on the attached maps:

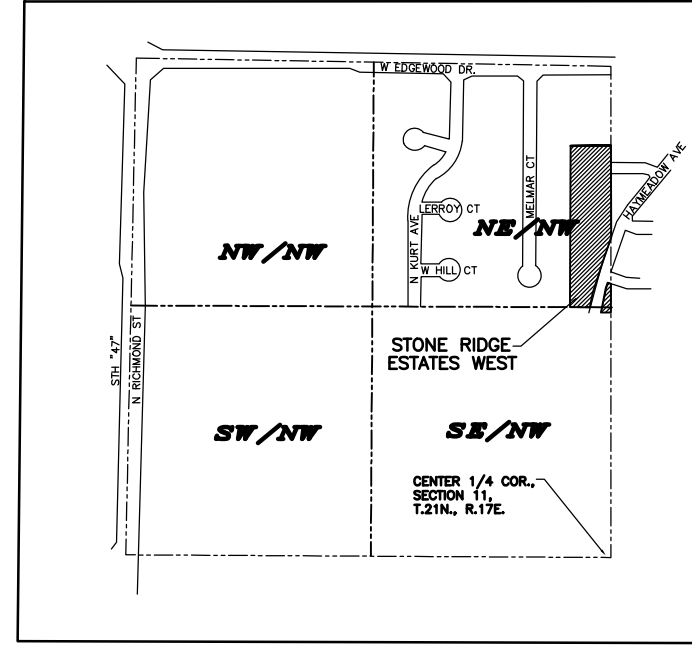
1. Prior to City signatures being affixed to the Final Plat, park fees shall be paid to the City of Appleton Finance Department pursuant to Section 17-29 of the Municipal Code. For lots zoned R-1B Single-Family District, park fees are \$300 per lot.
2. Grant relief from the minimum lot width requirements for proposed Lot 8, per Section 17-3(f) of the Municipal Code and as stated in the staff report.
3. List the benchmark reference datum.
4. The following note shall be added to the Final Plat: *Lots 11 and 12 contain a private storm water pond. No building permits will be issued for these lots during the time period that the pond occupies the lots. Issuance of any future building permits for lot 11 and lot 12 will not occur until such time as the private pond is removed, and alternate facilities constructed as part of a city-approved revision to the stormwater management plan for this plat.*
5. A Development Agreement is required between the City and applicant that identifies the duties and responsibilities with respect to development of the subject land.
6. A Stormwater Permit Application, Stormwater Management Plan and Engineering Plans have been submitted for review. Technical review comments have been provided to the consultant and all such comments must be addressed on the Final Plat.
7. All requirements from the City of Appleton Department of Public Works, Engineering Division shall be met to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.
8. The owner/applicant shall submit to the City the Final Plat within 36 months after the last required approval of the Preliminary Plat. If the Final Plat is not submitted within said 36 months, the City (and any other approving authority) may refuse to approve the Final Plat and shall recommence the procedure for Preliminary Plat approval or may extend the time for submission of the Final Plat.



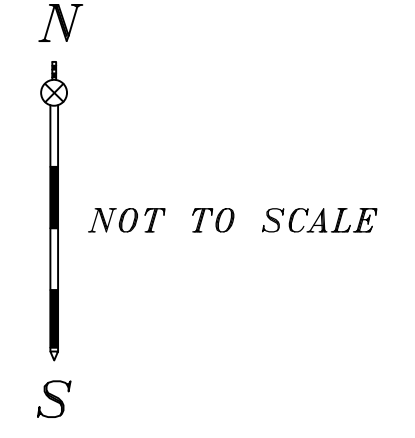
PRELIMINARY PLAT
STONE RIDGE ESTATES WEST
LEGAL DESCRIPTION

ALL OF LOT 3 OF CERTIFIED SURVEY MAP NUMBER 7857 AS RECORDED IN DOCUMENT NUMBER 2182744 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, CONTAINING 169,182 SQUARE FEET (3.88 ACRES) OF LAND, MORE OR LESS, AND SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

LOCATION SKETCH



NW 1/4 SECTION 11, T21N, R17E



SURVEYOR'S CERTIFICATE:
 I, MICHAEL J. FRANK, WISCONSIN PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PRELIMINARY PLAT IS A CORRECT REPRESENTATION OF ALL EXISTING LAND DIVISIONS AND FEATURES, AND THAT I HAVE COMPLIED WITH THE PROVISIONS OF THE CITY OF APPLETON SUBDIVISION ORDINANCE.

DATED THIS _____ DAY OF _____, 2021

MICHAEL J. FRANK S-2123
 WISCONSIN REGISTERED LAND SURVEYOR

GENERAL NOTES

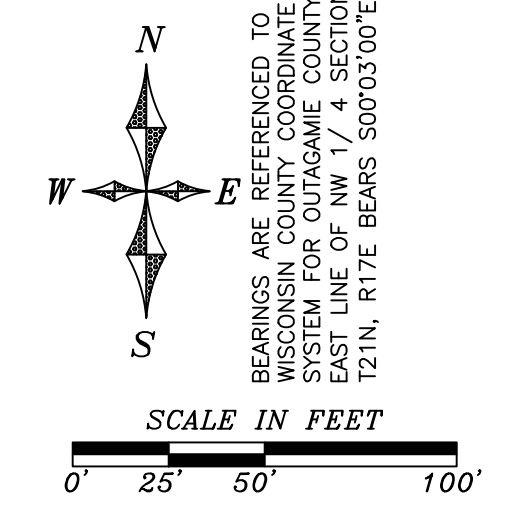
- TOTAL ACRES = 3.88 ACRES
- PROPOSED NUMBER OF LOTS: 10 LOTS
- MINIMUM LOT SIZE = 6,000 SQ. FT.
- MINIMUM LOT WIDTH AT SETBACK = 50'
- PROPOSED TYPICAL DIMENSIONS ARE 80' x 170'
- PROPOSED TOTAL LENGTH OF NEW STREET: 385'
- STRATFORD LANE TO BE DEDICATED = 10,139 SQ.FT.
- PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL ZONED R1B
- SETBACKS: FRONT 20'
- REAR 25'
- SIDE YARD 6'

CURVE DATA TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT BEARING-IN	TANGENT BEARING-OUT
C1	600.00'	54.58'	84.56'	S 16°51'25" W	5°12'44"	S 19°07'47" W	S 13°55'03" W
C2	55.00'	254.17'	81.24'	S 42°20'31" E	284°47'0332"	S 89°57'00" W	N 03°09'57" E
C3	55.00'	12.25'	12.22'	S 83°34'09.5" W	12°45'41"	S 89°57'00" W	S 77°11'19" W
C4	55.00'	48.32'	46.78'	S 52°01'17" W	50°20'04"	S 77°11'19" W	S 26°51'15" W
C5	55.00'	51.30'	49.46'	S 02°08'06.5" W	53°28'17"	S 26°51'15" W	S 26°35'02" E
C6	55.00'	45.59'	44.30'	S 50°19'47.5" E	47°29'31"	S 26°35'02" E	S 74°04'33" E
C7	55.00'	96.70'	84.72'	N 55°32'42" E	100°45'30"	S 74°04'33" E	N 05°11'13" E

LEGEND

- = 3/4" DIA. ROUND STEEL REBAR FOUND
- = 1-5/16" O.D. x 24" LONG IRON PIPE SET WEIGHING 1.13 LBS./LIN. FOOT SET
- = 1-5/16" O.D. IRON PIPE FOUND
- = 1 1/4" DIA. ROUND STEEL REBAR FOUND
- () = RECORDED AS
- ⊙ = POWER POLE
- ⊕ = WATER VALVE
- ⊗ = CATCH BASIN
- ⊙ = STORM MANHOLE
- ⊙ = HYDRANT
- ⊙ = SANITARY MANHOLE
- ⊙ = UTILITY PED
- ⊙ = LIGHT POLE
- ⊙ = EXIST. SPOT ELEV.
- OHP — = OVERHEAD POWER LINE
- EX — = EXISTING CONTOUR
- SAN — = SANITARY SEWER
- WATER — = WATER MAIN
- STO — = STORM SEWER
- — — = UNDERGROUND GAS



BENCHMARKS

- BM** BASE OPP NUT HYD. ELEV. = 846.54
HYDRANT LOCATED SOUTH SIDE CLEARFIELD LANE 1ST WEST OF HAYMEADOW
- BM** BASE OPP NUT HYD. ELEV. = 844.80
HYDRANT LOCATED SOUTH SIDE STRATFORD LANE WEST END
- BM** BASE OPP NUT HYD. ELEV. = 843.59
HYDRANT LOCATED SOUTHEAST CORNER OF BENTON DR. & HAYMEADOW LN.
- BM** BASE OPP NUT HYD. ELEV. = 843.06
HYDRANT LOCATED @ HAYMEADOW & WENTWORTH LN.

OWNERS & SUBDIERS:
 CYPRESS HOMES, INC.
 1230 W COLLEGE AVE., SUITE D
 APPLETON, WI, 54914
 PHONE NO. 920-734-2324
OBJECTING AUTHORITIES:
 STATE OF WISCONSIN, DEPARTMENT OF ADMINISTRATION
APPROVING AUTHORITIES:
 CITY OF APPLETON

THE LOCATION OF UNDERGROUND UTILITIES INCLUDING NATURAL GAS, CABLE TV, ELECTRIC AND TELEPHONE ARE BASED ON MARKINGS PLACED BY "DIGGERS HOTLINE" REPRESENTATIVES IN ACCORDANCE WITH OUR INITIAL REQUEST ASSIGNED TICKET NUMBER 2021-17-08994, 2021-17-08997 AND 2021-17-08892 WHICH WAS LOCATED BY SCHULER AND ASSOCIATES SHORTLY AFTER THE GIVEN START TIMES BY "DIGGERS HOTLINE," IN APRIL OF 2021.

REVISIONS

SCHULER & ASSOCIATES, INC.
 LAND SURVEYORS & ENGINEERS
 2711 N. MASON STREET, Suite F APPLETON, WI 54914 (920) 734-9107

PRELIMINARY PLAT
STONE RIDGE ESTATES WEST
 CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.
 FOR: CYPRESS HOMES, INC.
 1230 W. COLLEGE AVE., STE D
 APPLETON, WI 54914

DRAWN
 MLF
DATE
 11-8-21
SCALE
 AS SHOWN
JOB NO.
 4548
SHEET
 1



**APPLICATION FOR SUBDIVISION ORDINANCE
CHAPTER 17, MODIFICATION OF REGULATIONS**

Community and Economic Development Department
100 N. Appleton St. PH: 920-832-6468
Appleton, WI 54911 FAX: 920-832-5994

RECEIVED

Dept. of Community & Economic Development

11-24-21

Stamp date received

PROPERTY OWNER		APPLICANT (owner's agent)	
Name Cypress Homes, Inc.		Name Jeff Rustick (Schuler & Associates, Inc.)	
Mailing Address 1230 W. College Avenue, Suite D Appleton, WI 54914		Mailing Address 2711 N. Mason Street, Suite F Appleton, WI 54914	
Phone (920) 734-2324	Fax	Phone (920) 734-9701	Fax
E-mail Shannon@callcypresshomes.com		E-mail jtr@schulerassociates.net	

PROPERTY INFORMATION		
Property Tax # (31-0-0000-00) 31-6-5802-02		
Site Address/Location N. Haymeadow Avenue		
Modification Request Submitted To: (check applicable box)		
<input checked="" type="checkbox"/> Common Council		
<input type="checkbox"/> Director of Public Works		
Current Zoning: R-1B	Proposed Zoning: R-1B	Proposed Average lot area: 16,000 sf
Current Uses: Vacant	Proposed Uses: Single Family Subdivision	Proposed Average Lot dimensions: 84' x 190'

THIS REQUEST IS FOR A MODIFICATION UNDER THE TERMS OF SECTION(S) OF THE SUBDIVISION ORDINANCE.

Section 17-26 (b)(1), 50' Required Lot Width per Section 23-93 (g)(3) for Lot 8. It is proposed to allow Lot 8 to have 40 feet of public street frontage.

X 11/24/21 X [Signature] Shannon Meyer, President
Date Owner/Agent Signature (Agents must provide written proof of authorization)

OFFICE USE ONLY			
FILE # <u>N/A</u>	Application Complete <u>Jessica Tittel</u>	<u>11/24/21</u>	Date Filed <u>12/22/21</u>
Fee \$0 Reasonable accommodations for persons with disabilities will be made upon request and if feasible.			

ADDITIONAL INFORMATION

The land to be subdivided is an infill site with fully developed property to the east (City of Appleton) and west (Town of Grand Chute). The locations of the streets that are to be extended into the property were pre-determined by others and make for somewhat atypical lots, although all but Lot 8 meet the requirements of the subdivision ordinance. The only modification required for Lot 8 is to allow 40 feet of width at the street right-of-way while the ordinance requires 50 feet. The lot is 90 feet wide at the 20 foot building setback, so widens quickly and has an area of 28,298 square feet.

1. The hardship in this situation is created by the shape of the property and the location of officially mapped Haymeadow Avenue. This is an infill site with limited options to subdivide efficiently.
2. By allowing the modification, only Lot 8 will deviate from the subdivision ordinance. If technical conformance with the ordinance was imposed on Lot 8, there would be a negative impact on Lot 9 without any true benefit to Lot 8.
3. The modification conforms to the general intent of the subdivision ordinance as Lot 8 is more than large enough to allow the construction of a typical home. The modification is not detrimental to the public interest, more particularly as follows:
 - The modification promotes the general welfare by allowing the establishment of quality home sites.
 - A house of size and value consistent with those in the immediate neighborhood can be constructed on the lot, protecting the property values of others.
 - This modification allows an appropriate use of the land considering the limitations of possible lot configurations.
 - The modification allows an orderly layout of the land in a functional subdivision configuration. Increasing Lot 8 frontage would negatively impact other lots without improving the condition of Lot 8.
 - Lot 8 will have adequate and convenient access to Haymeadow Avenue like any other subdivision lot.
 - Sewer and water service is readily available from Haymeadow Avenue. The lot is of adequate size to allow access to light and air.



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Extraterritorial Final Plat – Center Valley at 3800 – Town of Grand Chute

Case Manager: Don Harp, Principal Planner

GENERAL INFORMATION

Owner: Greene Development Appleton, Jim Greene

Applicant: Robert E. Lee & Associates, Troy Hewitt

Address/Parcel #: Generally located at the northeast corner of the intersection of Interstate Highway 41 and Wisconsin Avenue (S.T.H. 96) in the Town of Grand Chute – Tax Id #s 101091300 and 101091303.

Petitioner's Request: The applicant is proposing to subdivide property under Town's CR – Regional Commercial District zoning district for commercial development. The platted area is 19.379 acres, which will be divided into six (6) lots.

BACKGROUND

The Extraterritorial Preliminary Plat for Center Valley at 3800 was approved by the Plan Commission on November 10, 2021 and by the Common Council on November 17, 2021.

The subject area is within the City's extraterritorial plat approval jurisdiction, which includes the unincorporated area within three miles of the City or where extraterritorial jurisdictions overlap; the overlapping area is divided by a line whose points are equidistant from the boundaries of each municipality. This plat is located with the three-mile extraterritorial plat approval jurisdiction limit.

STAFF ANALYSIS

Purpose of Extraterritorial Plat Approval: The purpose of extraterritorial plat approval jurisdiction is to help the City influence the development pattern of areas outside the City boundaries that may be annexed to the City in the future. The current Intermunicipal Boundary Agreement with the Town of Grand Chute indicates the subject site is located outside of the City's annexation area.

Existing Conditions: The subject site is developed with WG&R Furniture (Lot 5) and REI Co-op (Lot 1). No buildings exist on proposed Lots 2, 3, 4 and 6. Access to the development will be obtained from Westhill Boulevard.

Surrounding Land Uses: The surrounding area is under the jurisdiction of the Town of Grand Chute. The nearby uses are generally commercial in nature.

Extraterritorial Final Plat – Center Valley at 3800 – Town of Grand Chute

January 12, 2022

Page 2

Comparison Between Final Plat and Preliminary Plat: The Final Plat is consistent with the Preliminary Plat layout in terms of the shape, size, and location of the lots.

Comprehensive Plan 2010-2030: Community & Economic Development staff has reviewed the City's *Comprehensive Plan 2010-2030* and determined this proposed subdivision is outside the City of Appleton's growth area.

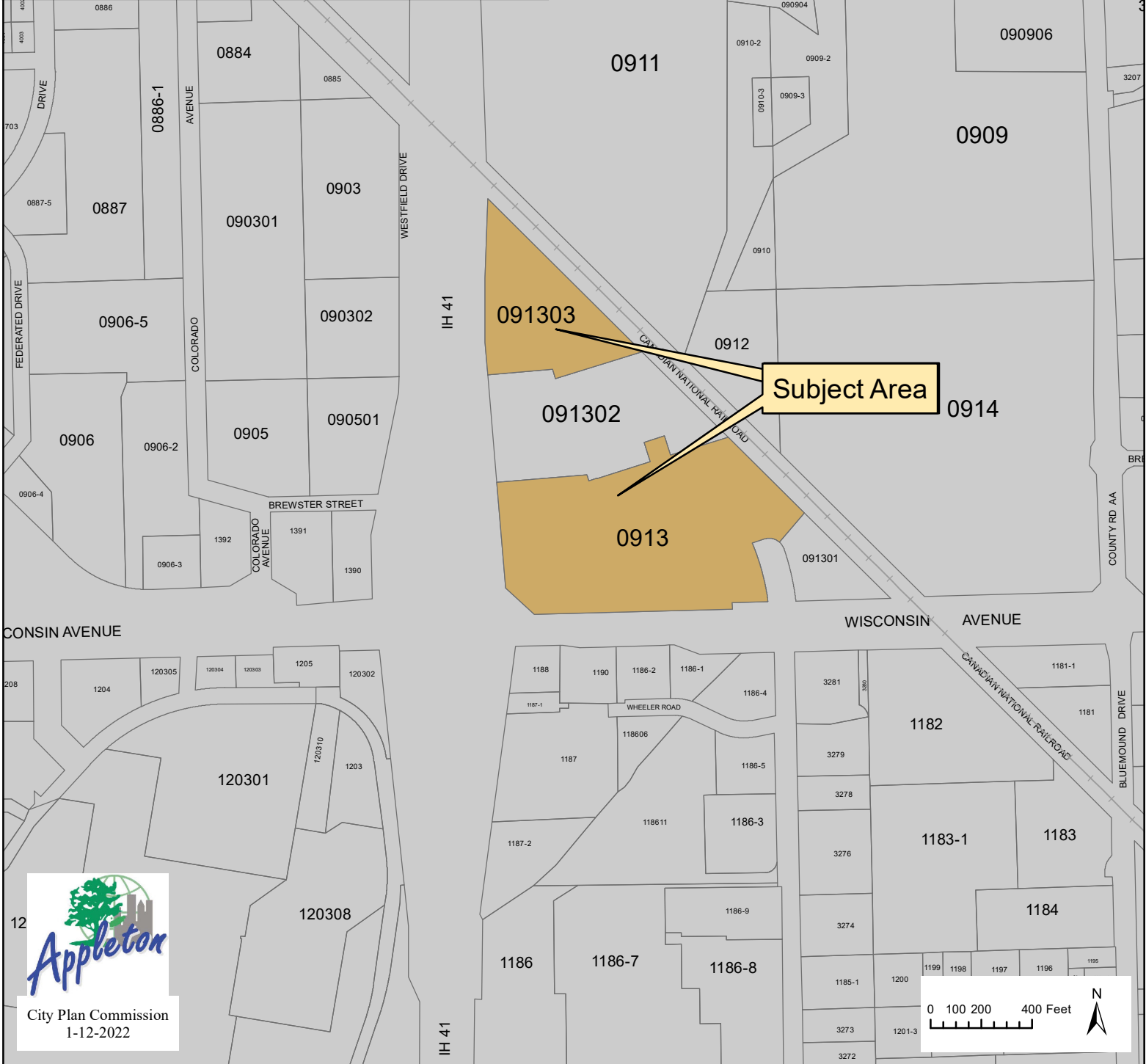
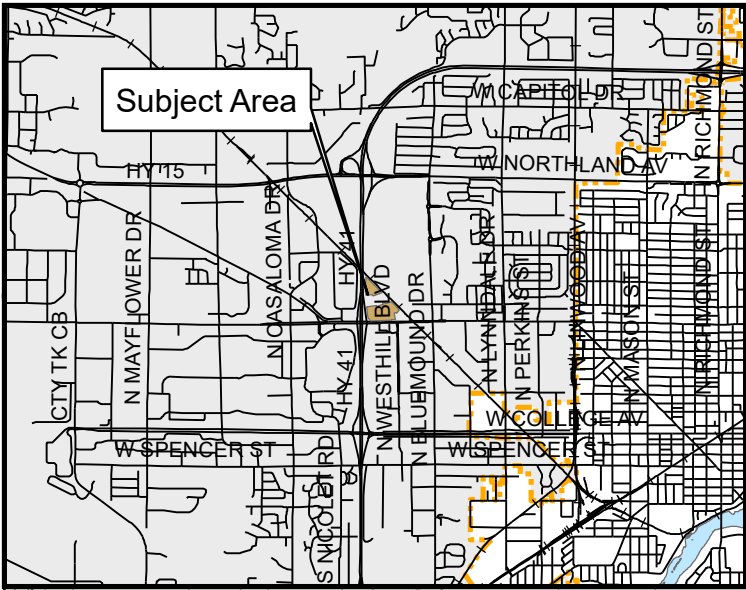
Review Criteria: Community & Economic Development staff has reviewed the Extraterritorial Final Plat in accordance with the City of Appleton Zoning Ordinance requirements for commercial developments. The lot sizes and lot widths for the lots in this Town of Grand Chute subdivision exceed minimum City of Appleton Zoning Ordinance requirements for commercial developments.

Technical Review Group (TRG) Report: This item was included on the December 7, 2021 Technical Review Group agenda. No negative comments were received from participating departments.

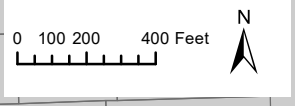
RECOMMENDATION

Based on the above, staff recommends that the Center Valley at 3800 Extraterritorial Final Plat, located in the Town of Grand Chute, as shown on the attached maps, **BE APPROVED**.

Extraterritorial Final Plat
Center Valley At 3800
Town of Grand Chute
Vicinity Map



City Plan Commission
1-12-2022



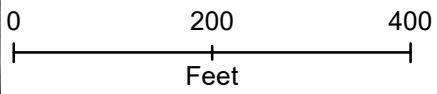
Extraterritorial Final Plat
Center Valley At 3800
Town of Grand Chute
Aerial Map



Subject Area



City Plan Commission
1-12-2022



CENTER VALLEY AT 3800

ALL OF LOT 1 AND ALL OF LOT 3 OF VOLUME 47 OF CERTIFIED SURVEY MAPS, PAGE 7676, MAP NUMBER 7676, DOCUMENT NUMBER 2152310, BEING PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, AND PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4, ALL LOCATED IN SECTION 20, TOWNSHIP 21 NORTH, RANGE 17 EAST, TOWN OF GRAND CHUTE, OUTAGAMIE COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

I, Troy E. Hewitt, Professional Land Surveyor, hereby certify that by the order and under the direction of the owners listed hereon, I have surveyed, divided and mapped a parcel of land being all of Lot 1 and all of Lot 3 of Volume 47 of Certified Survey Maps, Page 7676, Map Number 7676, Document Number 2152310, being part of the Northwest 1/4 of the Southeast 1/4, part of the Southwest 1/4 of the Southeast 1/4, and part of the Southeast 1/4 of the Southeast 1/4, all located in Section 20, Township 21 North, Range 17 East, Town of Grand Chute, Outagamie County, Wisconsin.

Said parcel contains 844,130 Square Feet (19.379 Acres) of land more or less. Subject to easements and restrictions of record.

That the within map is a true and correct representation of the exterior boundaries of the land surveyed and the division of that land and that I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes in the surveying, dividing and mapping of the same.

Troy E. Hewitt PLS #2831 Date
ROBERT E. LEE & ASSOCIATES, INC.

OWNER'S CERTIFICATE

Greene Development-Appleton, LLC, a limited liability corporation duly organized and by virtue of the laws of the State of Wisconsin, as the property owner, does hereby certify that said limited liability caused the land described on this plat to be surveyed, divided and mapped as represented on this plat.

Greene Development-Appleton, LLC does further certify that this plat is required by s.236.10 or s.236.12 to be submitted to the following for approval or objection:

TOWN OF GRAND CHUTE
CITY OF APPLETON
OUTAGAMIE COUNTY DEVELOPMENT AND LAND SERVICES
DEPARTMENT OF ADMINISTRATION

Dated this _____ day of _____, 2021.

By _____

Print Name _____

Title _____ Date _____

STATE OF WISCONSIN) COUNTY) SS

Personally came before me this _____ day of _____, 2021, the above named officer of said limited liability company to me known to be the persons who executed the foregoing instrument and to me known to be such officer of said limited liability company, and acknowledged that they executed the foregoing instrument as such officer as the deed of said limited liability company, by its authority.

_____, Notary Public,
_____, Wisconsin

My commission expires _____

UTILITY EASEMENT PROVISIONS

An easement for electric, natural gas, communications, water, sanitary and storm sewer service is hereby granted by

GREENE DEVELOPMENT APPLETON, Grantor, to

WISCONSIN ELECTRIC POWER COMPANY and WISCONSIN GAS, LLC, Wisconsin corporations doing business as We Energies, Grantee,

AT&T, Grantee,
TIME WARNER CABLE, Grantee
TOWN OF GRAND CHUTE, Grantee

their respective successors and assigns, to construct, install, operate, repair, maintain and replace from time to time, facilities used in connection with overhead and underground transmission and distribution of electricity and electric energy, natural gas, water, sanitary and storm sewer, telephone and cable TV facilities for such purposes as the same is now or may hereafter be used, all in, over, under, across, along and upon the property shown within those areas on the plat designated as "Utility Easement Areas" and the property designated on the plat for streets and alleys, whether public or private, together with the right to install service connections upon, across within and beneath the surface of each lot to serve improvements, thereon, or on adjacent lots; also the right to trim or cut down trees, brush and roots as may be reasonably required incident to the rights herein given, and the right to enter upon the subdivided property for all such purposes. The Grantee agrees to restore or cause to have restored, the property, as nearly as is reasonably possible, to the condition existing prior to such entry by the Grantee or their agents. This restoration, however, does not apply to the initial installation of said underground and/or above ground electric facilities, natural gas facilities, water facilities, sanitary and storm sewer facilities or telephone and cable TV facilities or to any trees, brush or roots which may be removed at any time pursuant to the rights herein granted. Structures shall not be placed over Grantee's facilities or in, upon or over the property within the lines marked "Utility Easement Areas" without the prior written consent of Grantee. After installation of any such facilities, the grade of the subdivided property shall not be altered by more than four inches without written consent of grantees.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

TOWN OF GRAND CHUTE CERTIFICATE

Approved by the Town of Grand Chute this _____ day of _____, 2021.

Jason Van Eperen Date
Chairperson

CITY OF APPLETON CERTIFICATE

Approved by the Common Council of the City of Appleton this _____ day of _____, 2021.

Jake Woodford Date
Mayor

OUTAGAMIE COUNTY CERTIFICATE

Approved by the Outagamie County Agriculture, Extension Education, Zoning and Land Conservation Committee

this _____ day of _____, 2021.

Jason Pausma Date
Senior Planner

TOWN OF GRAND CHUTE TREASURER'S CERTIFICATE

I, being the duly elected, qualified and acting Treasurer of the Town of Grand Chute, do hereby certify that in accordance with the records in my office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this plat.

Julie Wahlen Date
Town of Grand Chute Treasurer

OUTAGAMIE COUNTY TREASURER'S CERTIFICATE

I, being the duly elected, qualified and acting Treasurer of Outagamie County, do hereby certify that in accordance with the records in my office, there are no unredeemed tax sales and unpaid taxes, or special assessments on and of the land included in this plat.

Trenton Woelfel Date
Outagamie County Treasurer

TRANS 233.05 - ACCESS RESTRICTION CLAUSE

As Owner, I hereby restrict all lots and blocks (except existing driveway on Lot 5), in that no owner, possessor, user, nor licensee, nor other person shall have any right of direct vehicular ingress or egress with IH 41 or STH 96, as shown on the plat; it being expressly intended that this restriction shall constitute a restriction for the benefit of the public according to s. 236.293, Stats., and shall be enforceable by the Wisconsin Department of Transportation

TRANS 233.08 - HIGHWAY SETBACK

No improvements or structures are allowed between the right of way line and the highway setback line. Improvements and structures include, but are not limited to, signs, parking areas, driveways, wells, septic systems, drainage facilities, buildings and retaining walls. It is expressly intended that this restriction is for the benefit of the public as provided in section 236.293, Wisconsin Statutes, and shall be enforceable by the Wisconsin Department of Transportation or its assigns. Contact the Wisconsin Department of Transportation for more information. The phone number may be obtained by contacting the County Highway Department.

PUBLIC TRUST INFORMATION

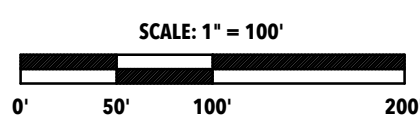
Any land below the ordinary high water mark of a lake or a navigable stream is subject to the public trust in navigable waters that is established under article IX, Section 1, of the State Constitution.

Curve Table							
Curve #	Delta	Radius	Length	Chord Direction	Chord Length	Tangent Bearing	Second Bearing
C1	58°08'56"	60.50'	61.40'	N78°19'36"W	58.80'	N49°15'08"W	S72°35'57"W
C2	15°11'32"	910.00'	241.29'	S15°06'51"E	240.58'	N07°31'05"W	N22°42'37"W

Line Table					
Line #	Length	Direction	Line #	Length	Direction
L1	53.11'	S72°35'57"W	L6	38.96'	N17°26'06"W
L2	25.00'	S01°30'10"E	L7	25.51'	N33°58'18"E
L3	24.75'	S17°26'06"E	L8	21.13'	N03°04'35"E
L4	35.42'	N72°33'54"E	L9	44.29'	S75°25'29"W
L5	0.67'	S17°26'06"E			

LEGEND

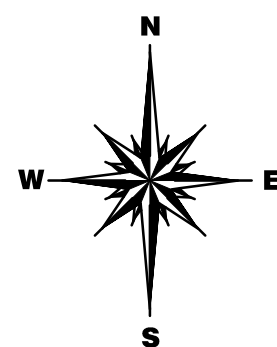
- County PLSS Monument
- Existing 1" Iron Pipe
- Existing 3/4" Iron Rod
- Wetlands delineated by Martenson & Eisele, Inc. and concurred by the DNR on 12/14/16
- 75' Setback from ordinary high water mark
- 100 Year Floodplain per FIRM Map Number 55087C0314D Effective Date July 22, 2010
- No Access
- Floodplain Cross Section
- All other lot corners marked with a 1.125" outside dia x 18" iron pipe weighing 1.38 lbs/lin. ft.



Bearings are referenced to the Outagamie County Coordinate System. The south line of the Southeast 1/4 bears N88°29'50"E.

All linear measurements have been made to the nearest hundredth of a foot and computed to the nearest hundredth of a foot.

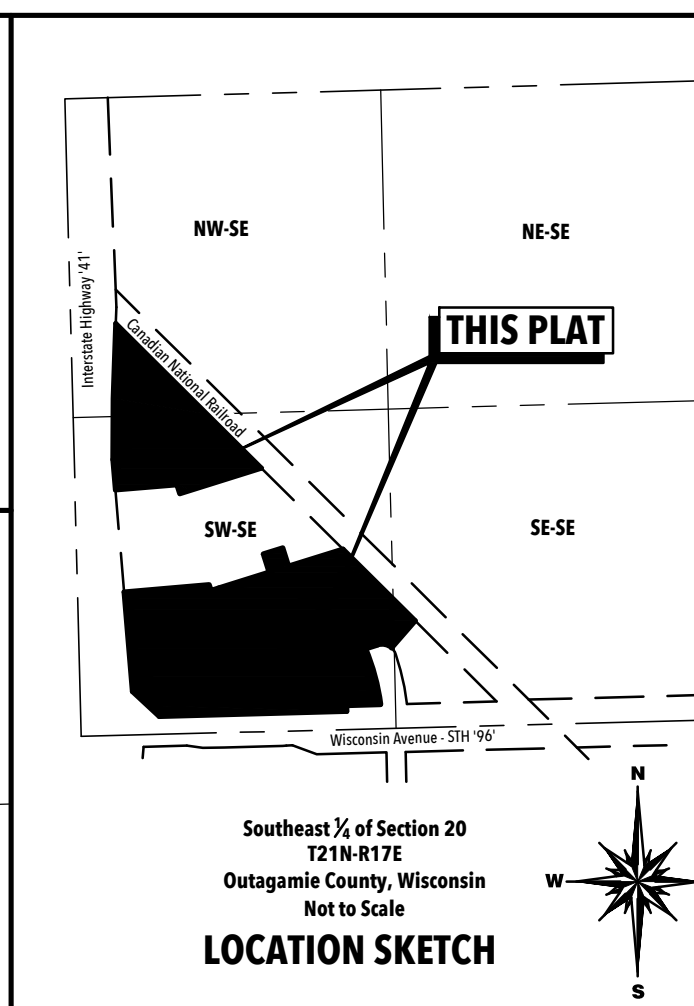
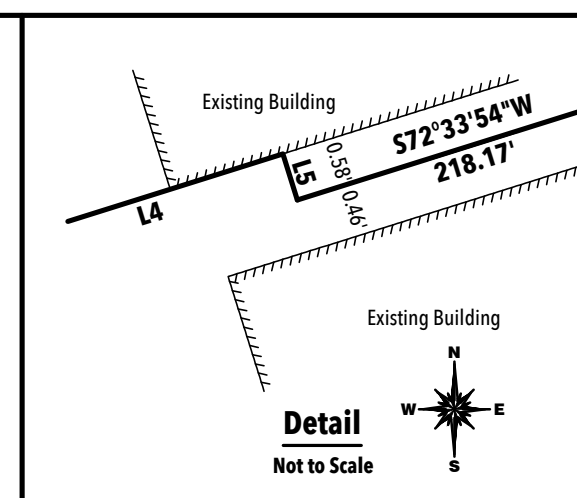
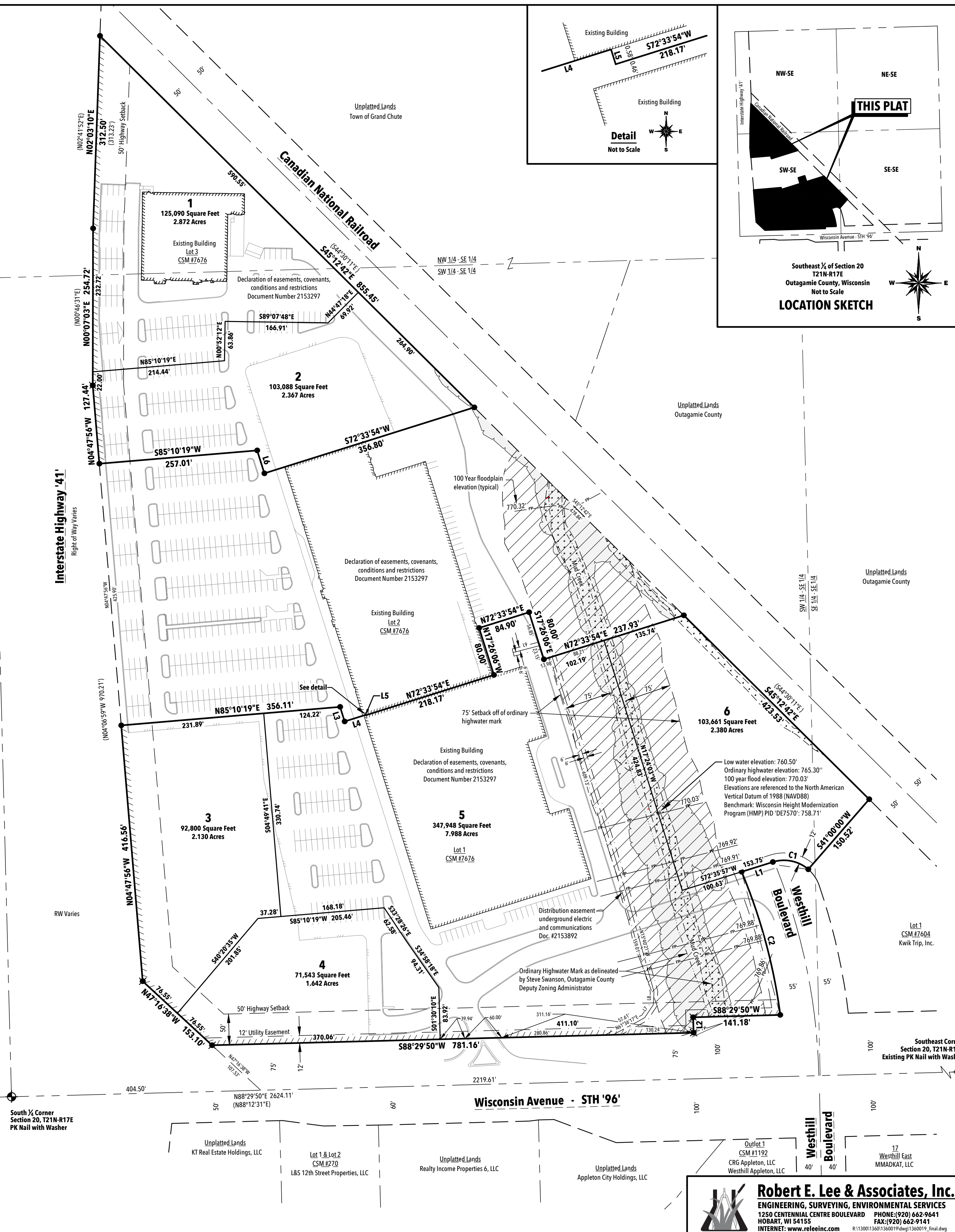
All angular measurements have been made to the nearest three seconds and computed to the nearest half second.



There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20 _____

Department of Administration





REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Dedication of Public Right-of-Way for Spartan Drive

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner/Applicant: City of Appleton c/o Tom Kromm, Department of Public Works

Location: The subject property is located west of North Meade Street, connecting existing East Spartan Drive right-of-way to the west and east (part of Tax Id #31-6-6100-62).

Petitioner's Request: The applicant is requesting a dedication of land for public right-of-way for Spartan Drive.

BACKGROUND

On March 5, 2008, Common Council adopted Ordinance 51-08, which amended the City's Official Map to officially map the location of an east-west roadway to be known as Spartan Drive.

On November 3, 2021, the Common Council adopted the Spartan Drive (Right-of-Way) Annexation Ordinance. The property was officially annexed to the City on November 9, 2021 at 12:01 a.m.

The owner/applicant has submitted a Certified Survey Map (CSM) to create one outlot and dedicate the subject area for public roadway purposes. A future stormwater pond is anticipated on Outlot 1. The CSM, currently under review, is subject to the acceptance of the public right-of-way dedication by Plan Commission and Common Council.

STAFF ANALYSIS

Public Right-of-Way Dedication: Approximately 98,888 square feet (2.2701 acres) of land is included in the proposed right-of-way dedication. The right-of-way width for this portion of Spartan Drive will be 70 feet wide. The right-of-way widens out on the east end of the subject area to accommodate a drainage structure that is anticipated in this area.

Street Classification: Spartan Drive is classified as a collector street on the City's Arterial/Collector Plan.

Official Street Map: The proposed right-of-way dedication is generally consistent with the City of Appleton Official Street Map.

Street Dedication – Spartan Drive

January 12, 2022

Page 2

Surrounding Zoning Classification and Land Uses:

North: Town of Grand Chute. The adjacent land use to the north is currently agriculture.

South: P-I Public Institutional District & Town of Grand Chute. The adjacent land use to the south is currently agriculture and planned for a future City-owned stormwater management facility.

East: P-I Public Institutional District. The adjacent land use to the east is currently undeveloped and planned for a future City-owned stormwater management facility.

West: R-1B Single-Family District. The adjacent land use to the west is currently single-family residential (Clearwater Creek Subdivision).

Comprehensive Plan 2010-2030: The City of Appleton *Comprehensive Plan 2010-2030* identifies this area for future One and Two-Family Residential uses. The proposed future construction of a street is consistent with the Future Land Use Map, which identifies the location of officially mapped Spartan Drive. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 4 – Transportation

Appleton will support a comprehensive transportation network that provides viable options for pedestrian, bicycle, highway, rail, and air transportation, both locally and within the region.

OBJECTIVE 6.1 Transportation:

Plan for the safe and efficient movement of vehicles on local and regional roads.

OBJECTIVE 6.8 Transportation:

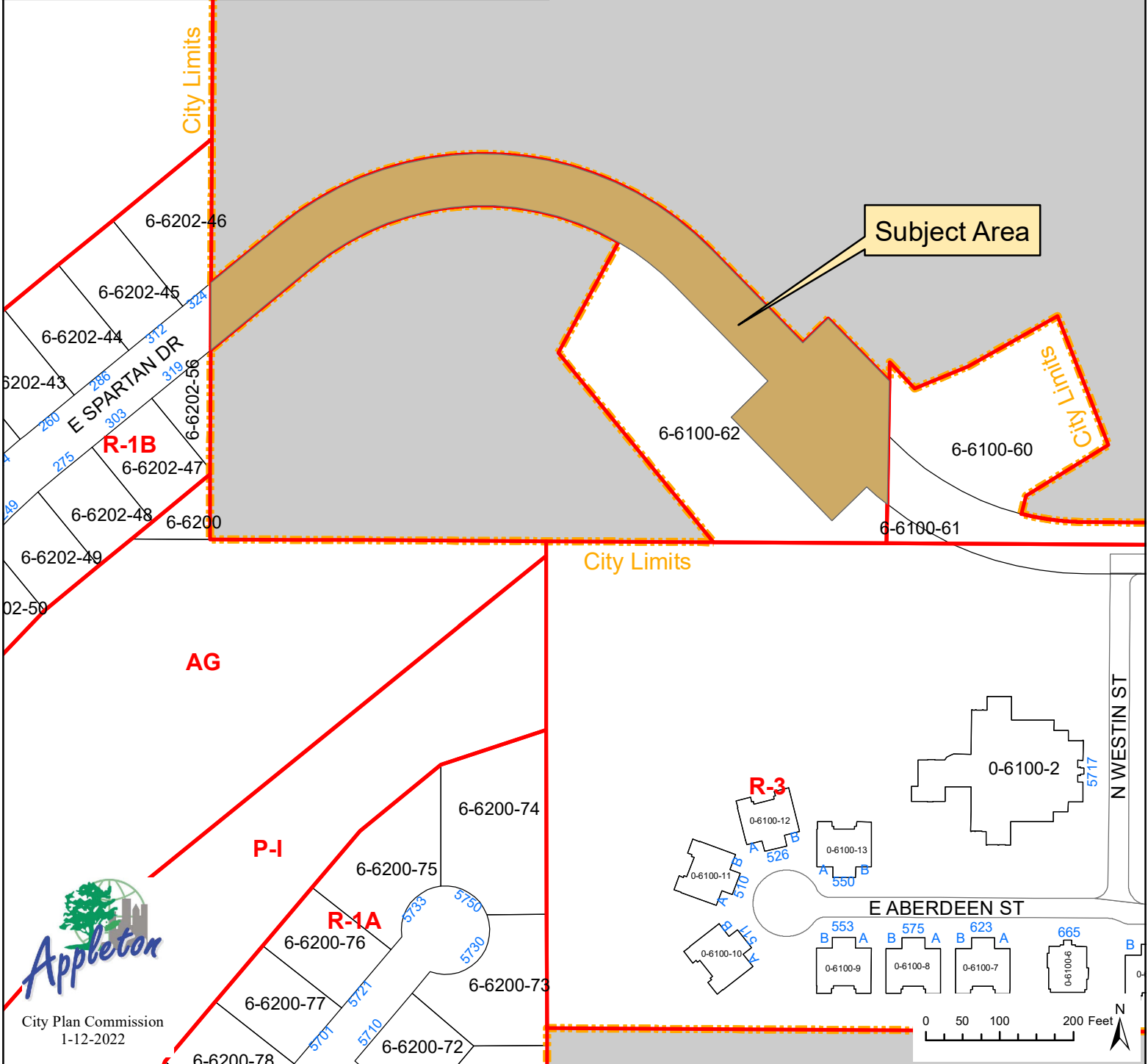
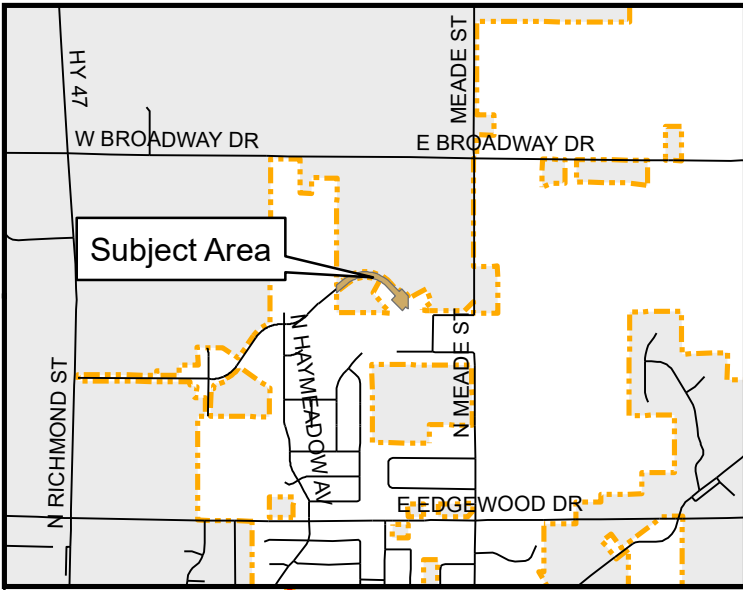
Implement transportation improvements which also support the City's desired land use, housing and neighborhood goals, objectives, and policies.

Technical Review Group (TRG) Report: This item was placed on the December 21, 2021 Technical Review Group agenda. No negative comments were received from participating departments.

RECOMMENDATION

Staff recommends the dedication of land for public right-of-way for Spartan Drive, as shown on the attached maps, **BE APPROVED**.

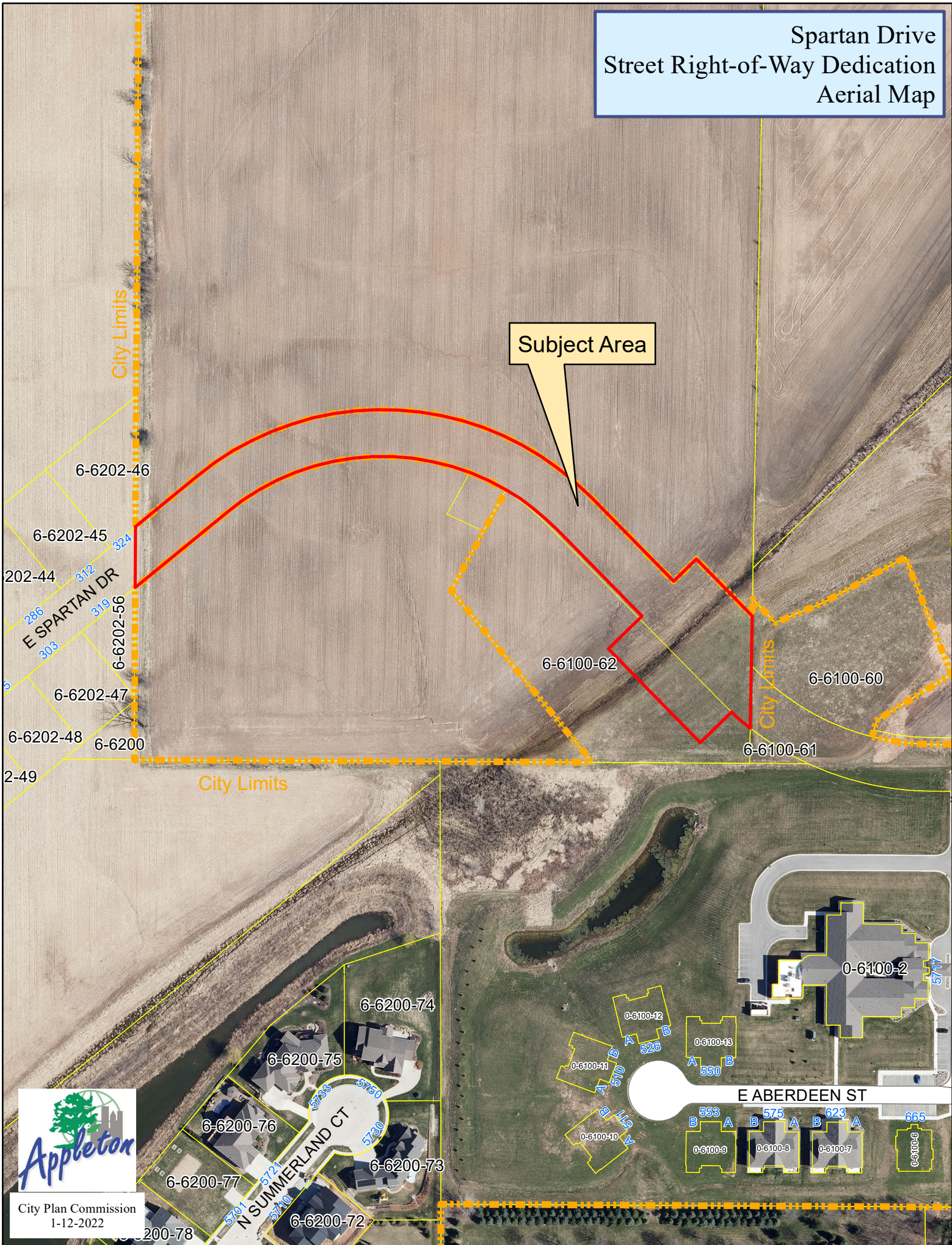
Spartan Drive Street Right-of-Way Dedication Zoning Map



City Plan Commission
1-12-2022

Spartan Drive Street Right-of-Way Dedication Aerial Map

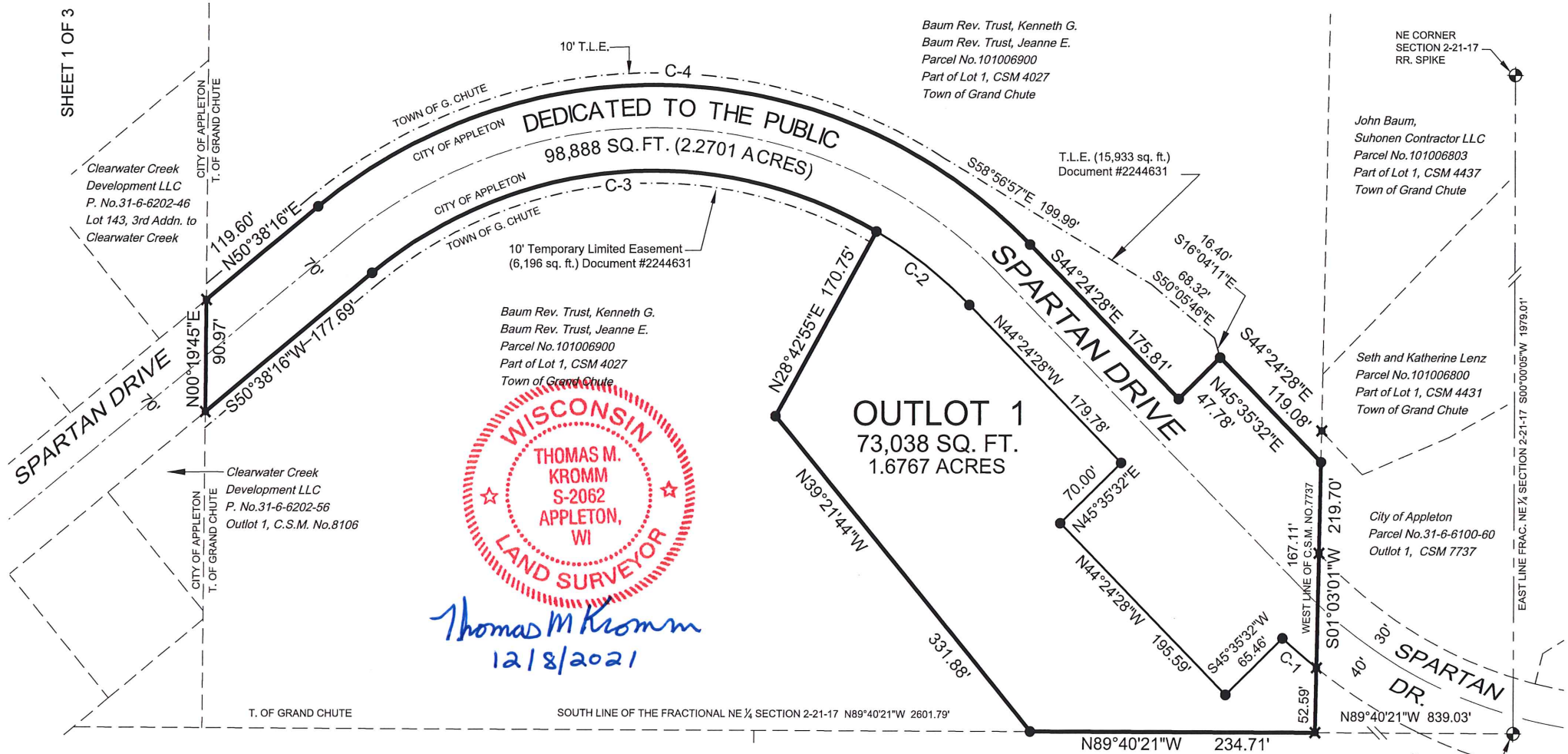
Subject Area



City Plan Commission
1-12-2022

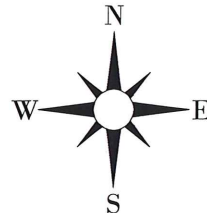
CERTIFIED SURVEY MAP NO.

Part of Lot 1 of Certified Survey Map No. 4027 filed in Volume 22 of Certified Survey Maps on Page 4027 as Document No. 1402877, being located in the South 1/2 of the Fractional Northeast 1/4 of Section 2, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.



Thomas M Kromm
12/8/2021

CURVE DATA TABLE				
CURVE	RADIUS	LENGTH	LC	LCB
C1	440.00'	36.89'	36.88'	N49°24'52"W
C2	365.00'	97.52'	97.27'	N52°03'42"W
C3	365.00'	443.68'	416.86'	S85°27'40"W
C4	435.00'	644.99'	587.51'	S86°53'06"E



BEARINGS ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, OUTAGAMIE COUNTY, SOUTH LINE OF THE FRACTIONAL NE 1/4 SECTION 2, T.21N., R.17E.; WHICH BEARS N89°40'21"W
H:\Acad\CSM\2021\Spartan_Baum_0519_2021

- LEGEND---
- = 3/4" Iron Rebar, 24" long, Weighing 1.5 lbs./ft. Set
 - () = Measurements of Record
 - ⊕ = Government Corner
 - ✕ = 3/4" Iron Rebar Found

CITY OF APPLETON
DEPT. OF PUBLIC WORKS
ENGINEERING DIVISION
100 NORTH APPLETON STREET
APPLETON, WI 54911
920-832-6474
DRAFTED BY: T. KROMM

CERTIFIED SURVEY MAP NO. _____

Part of Lot 1 of Certified Survey Map No. 4027 filed in Volume 22 of Certified Survey Maps on Page 4027 as Document No.1402877, located in the South ½ of the Fractional Northeast ¼ of Section 2, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.

SURVEYOR'S CERTIFICATE:

Part of Lot 1 of Certified Survey Map No. 4027 filed in Volume 22 of Certified Survey Maps on Page 4027 as Document No.1402877, located in the South ½ of the Fractional Northeast ¼ of Section 2, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 3.9468 Acres (171,926 sq. ft.) of land and being described by:

SHEET 2 OF 3

Commencing at the East ¼ corner of said Section 2;
Thence North 89°40'21" West 839.03 feet coincident with the South line of the Fractional NE ¼ of said Section 2 to the point of beginning;
Thence continue North 89°40'21" West 234.71 feet along the South line of the Fractional NE ¼ of said Section 2;
Thence North 39°21'44" West 331.88 feet;
Thence North 28°42'55" East 170.75 feet;
Thence Westerly 443.68 feet along the arc of a curve to the left having a radius of 365.00 feet and the chord of which bears South 85°27'40" West 416.86 feet;
Thence South 50°38'16" West 177.69 feet;
Thence North 00°19'45" East 90.97 feet;
Thence North 50°38'16" East 119.60 feet;
Thence Easterly 644.99 feet along the arc of a curve to the right having a radius of 435.00 feet and the chord of which bears South 86°53'06" East 587.51 feet;
Thence South 44°24'28" East 175.81 feet;
Thence North 45°35'32" East 47.78 feet;
Thence South 44°24'28" East 119.08 feet;
Thence South 01°03'01" West 219.70 feet to the point of beginning.
Said lands subject to all easements and restrictions of record.

That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes and the City of Appleton subdivision ordinance in surveying, dividing and mapping the same. That this map is a correct representation of all exterior boundaries of the land surveyed and the division thereof.

Dated this 8th day of December, 2021.

Thomas M Kromm

Wisconsin Professional Land Surveyor: Thomas M. Kromm



This Certified Survey Map is all of tax parcel 31-6-6100-62.
This Certified Survey Map is Zoned AG.

This Certified Survey Map is contained within the property described in the following recorded instrument:
Document No.2244630.

The property owner of record is the City of Appleton.

RELOCATION ORDER

The City of Appleton, Outagamie/Calumet/Winnebago Counties, Wisconsin, by its Common Council and for its Relocation Order hereby resolves as follows:

1. That this Resolution is a Relocation Order in accordance with subsection 32.05(1), Wisconsin Statutes, for the purpose of the within-described public improvement project and it is also a determination of necessity for that project in accordance with subsection 32.07(2), Wisconsin Statutes;
2. That the City of Appleton hereby determines that it is necessary and of public purpose to construct water main in the area of Oneida Street, in or near the City of Appleton, Wisconsin.
3. That said project will be built within the areas marked on the scale drawing, which is attached to this Relocation Order as Exhibit "A" and is incorporated herein;
4. That said construction work will be done within the areas marked on the scale drawing, which is attached to this Relocation Order as Exhibit "A" and is incorporated herein;
5. That the legal description for the acquisition of a permanent limited easement necessary for this project is contained in Exhibit "B" which are also incorporated herein;
6. That the City of Appleton will acquire a permanent limited easement in the area described in the "Legal Description for PLE" contained in Exhibit "B" from the present owner.

Passed and approved this _____ day of _____, 2022.

I hereby certify that on this _____ day of _____, 2022, that the within Relocation Order was adopted by a vote of _____ ayes and _____ nays by the Common Council for the City of Appleton, Wisconsin.

Record and return to:

City of Appleton – City Attorney's Office
100 North Appleton Street
Appleton, WI 54911-4799

Harrison Tax ID No. 39870

SIGNATURES APPEAR ON THE FOLLOWING PAGE

City of Appleton

ATTEST:

APPROVED:

Kami Lynch, City Clerk

Jacob A. Woodford, Mayor

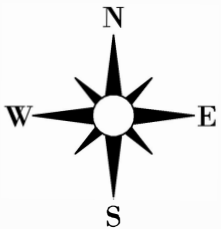
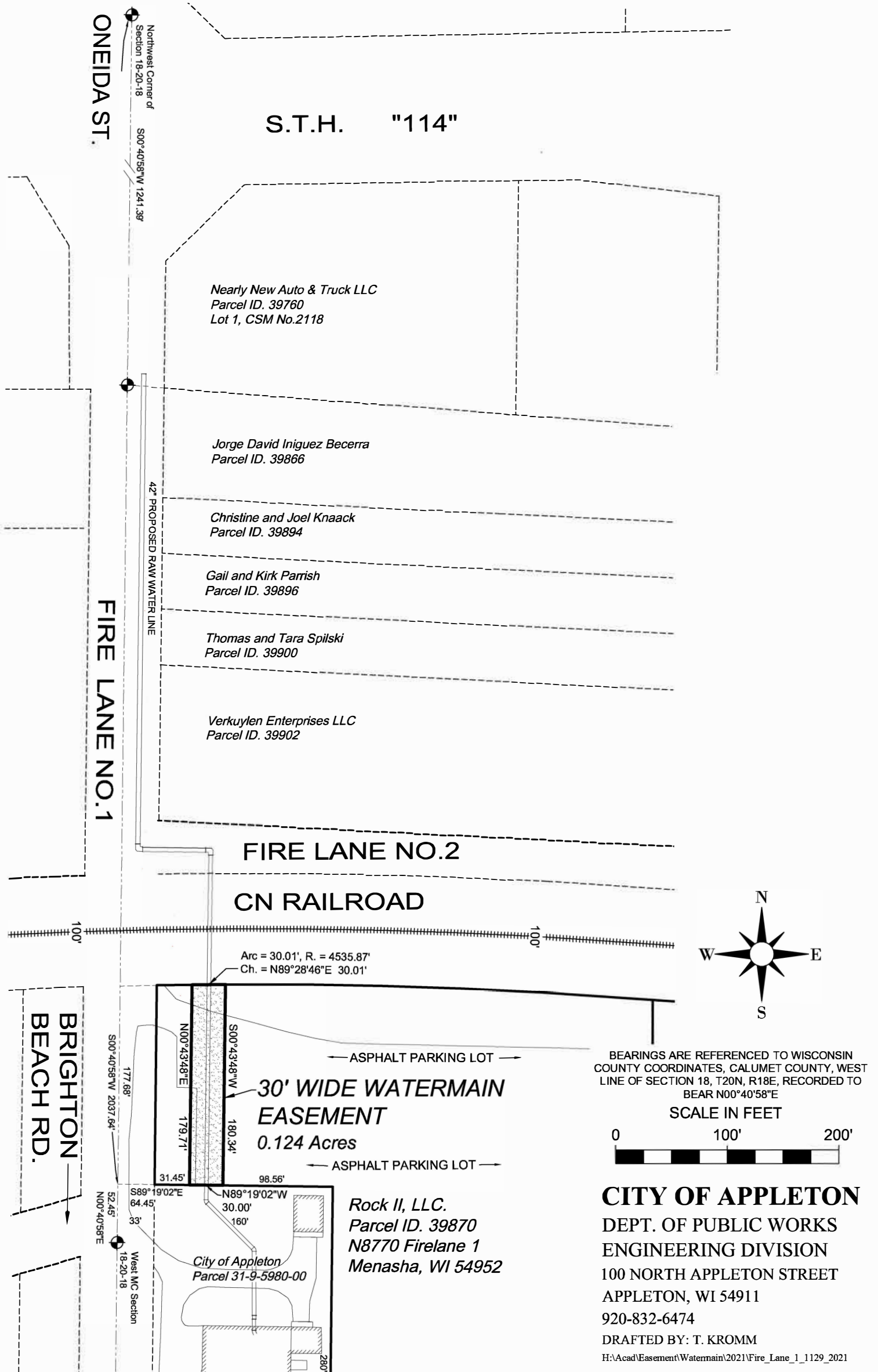
Subscribed and sworn to before me
this ____ day of _____, 2022.

Jamie L. Griesbach
Notary Public, State of Wisconsin
My commission expires: 11/11/2025

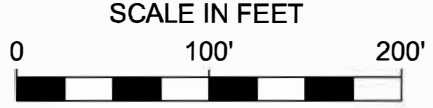
This instrument was drafted by:
Christopher R. Behrens,
Appleton City Attorney
City Law: A21-0938

EXHIBIT "A"

A part of the West One-Half (W 1/2) of the Northwest Quarter (NW 1/4) of Fractional Section Eighteen (18), Township Twenty (20) North, Range Eighteen (18) East, Village of Harrison, Calumet County, Wisconsin



BEARINGS ARE REFERENCED TO WISCONSIN COUNTY COORDINATES, CALUMET COUNTY, WEST LINE OF SECTION 18, T20N, R18E, RECORDED TO BEAR N00°40'58"E



CITY OF APPLETON
 DEPT. OF PUBLIC WORKS
 ENGINEERING DIVISION
 100 NORTH APPLETON STREET
 APPLETON, WI 54911
 920-832-6474
 DRAFTED BY: T. KROMM
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EXHIBIT B

Legal Description for PLE ROCK II, LLC

Harrison Tax Id No. 39870
Document No. 2232656

The Servient Property Is Described As:

All that part of Government Lot Four (4) of Fractional Section Eighteen (18), Township Twenty (20) North, Range Eighteen (18) East, Village of Harrison (formerly Town of Harrison), Calumet County, Wisconsin more fully described in Warranty Deed Document No. 378386 of the Calumet County Registers of Deeds Office.

The Permanent Easement Area Is Described As:

A 30 foot wide strip of land being a part of Government Lot Four (4) of Fractional Section Eighteen (18), Township Twenty (20) North, Range Eighteen (18) East, Village of Harrison, Calumet County, Wisconsin, containing 0.124 Acres of land and being more particularly described by:

Commencing at the Northwest corner of said Section 18;

Thence South 00°40'58" West 2037.64 feet coincident with the West line of the NW ¼ of said Section 18;

Thence South 89°19'02" East 64.45 feet coincident with a South line of lands described in Warranty Deed Document Number 378386 and being the point of beginning;

Thence North 00°43'48" East 179.71 feet to the North line of lands described in Warranty Deed Document Number 378386;

Thence Easterly 30.01 feet along the arc of a curve to the right having a radius of 4535.87 feet and the chord of which bears North 89°28'46" East 30.01 feet along the North line of lands described in Warranty Deed Document Number 378386 and being coincident with the South line of the CN Railroad right of way;

Thence South 00°43'48" West 180.34 feet to the South line of lands described in Warranty Deed Document Number 378386;

Thence North 89°19'02" West 30.00 feet coincident with the South line of lands described in Warranty Deed Document Number 378386 to the point of beginning.

SEE ALSO ATTACHED EXHIBIT "A"

RELOCATION ORDER

The City of Appleton, Outagamie/Calumet/Winnebago Counties, Wisconsin, by its Common Council and for its Relocation Order hereby resolves as follows:

1. That this Resolution is a Relocation Order in accordance with subsection 32.05(1), Wisconsin Statutes, for the purpose of the within-described public improvement project and it is also a determination of necessity for that project in accordance with subsection 32.07(2), Wisconsin Statutes;
2. That the City of Appleton hereby determines that it is necessary and of public purpose to construct sidewalk and perform signal modifications on North Appleton Street from Washington Street to Packard Street, in or near the City of Appleton, Wisconsin.
3. That said project will be built within the areas marked on the scale drawing, which is attached to this Relocation Order as Exhibit "A" and is incorporated herein;
4. That said construction work will be done within the areas marked on the scale drawing, which is attached to this Relocation Order as Exhibit "A" and is incorporated herein;
5. That the legal descriptions for the acquisition areas necessary for this project are contained in Exhibits "B", "C", "D", and "E" which are also incorporated herein;
6. That the City of Appleton will acquire a fee simple interest in the areas described in the "Legal Description for Acquisition" contained in Exhibits "B", "C", "D", and "E" from the present owners.

Passed and approved this _____ day of _____, 2022.

I hereby certify that on this _____ day of _____, 2022, that the within Relocation Order was adopted by a vote of _____ ayes and _____ nays by the Common Council for the City of Appleton, Wisconsin.

Record and return to:

City of Appleton – City Attorney's Office
100 North Appleton Street
Appleton, WI 54911-4799

Tax Key Nos. 31-2-0419-00, 31-2-0408-00,
31-2-0495-00, 31-2-0624-00

SIGNATURES APPEAR ON THE FOLLOWING PAGE

City of Appleton

ATTEST:

APPROVED:

Kami Lynch, City Clerk

Jacob A. Woodford, Mayor

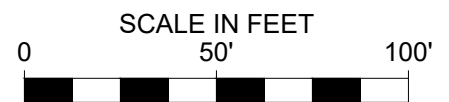
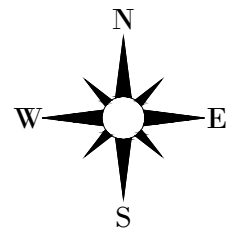
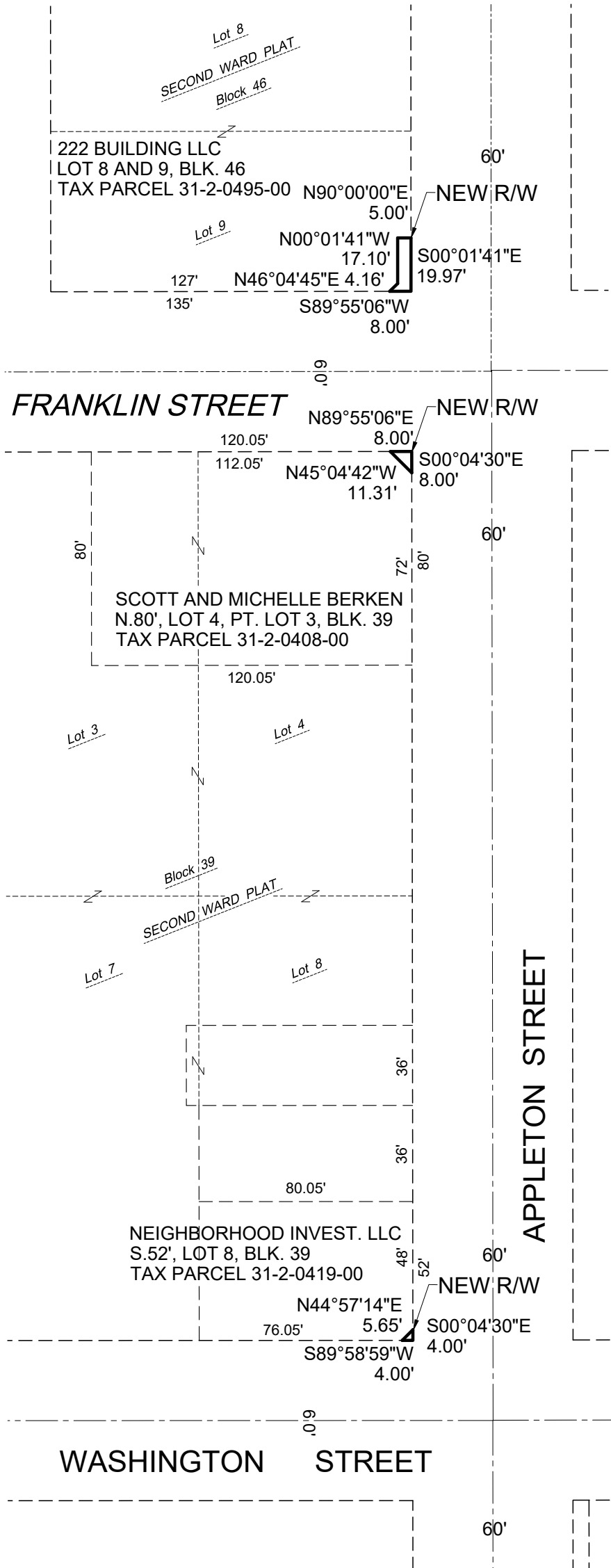
Subscribed and sworn to before me
this ____ day of _____, 2022.

Jamie L. Griesbach
Notary Public, State of Wisconsin
My commission expires: 11/11/2025

This instrument was drafted by:
Christopher R. Behrens,
Appleton City Attorney
City Law: A21-0934 – A21-0937

EXHIBIT A

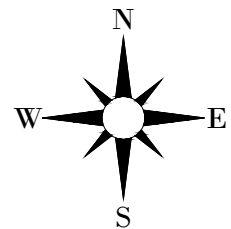
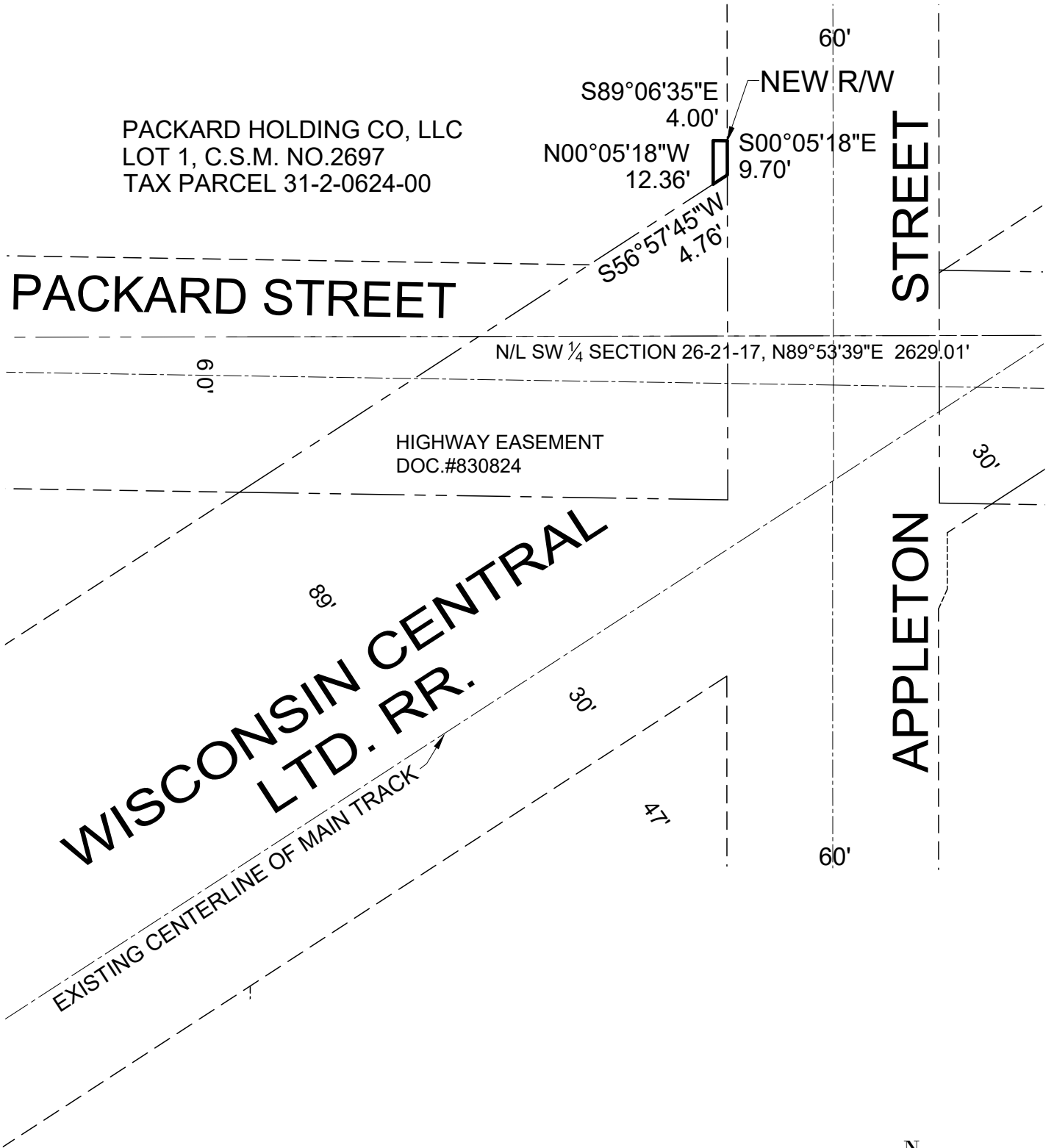
Part of Lot 9, in Block 46 and part of Lot 4 and 8, in Block 39, **SECOND WARD PLAT (aka APPLETON PLAT)**, according to the recorded Assessor's Map of the City of Appleton, located in and being a part of the Northeast ¼ of the Southwest ¼ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.



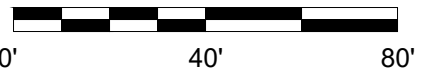
CITY OF APPLETON
 DEPT. OF PUBLIC WORKS
 ENGINEERING DIVISION
 100 NORTH APPLETON STREET
 APPLETON, WI 54911
 920-832-6474
 DRAFTED BY: T. KROMM
 Onedrive\Acad\r/w acq\2022\Appleton_Washington_
 Packard_1129_2021_Exhibit 1

EXHIBIT A

Part of Lot 1 of Certified Survey Map No. 2697 located in the Southeast ¼ of the Northwest ¼ of Section 26 of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin.



SCALE IN FEET



CITY OF APPLETON

DEPT. OF PUBLIC WORKS
ENGINEERING DIVISION

100 NORTH APPLETON STREET
APPLETON, WI 54911

920-832-6474

DRAFTED BY: T. KROMM

Onedrive\Acad\r/w acq\2022\Appleton_Washington_
Packard_1129_2021

EXHIBIT B

Legal Description for Acquisition NEIGHBORHOOD INVESTMENTS LLC

Tax Key No. 31-2-0419-00

Document No. 2232656

Fee Simple Interest:

A portion of land for street right way, being a part of Lot Eight (8), in Block Thirty-Nine (39), SECOND WARD PLAT (aka APPLETON PLAT), according to the recorded Assessor's Map of the City of Appleton, located in the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 8 Square Feet (0.0002 Acres) of land and described as follows:

Commencing at the Southeast corner of said Lot 8 being coincident with the Northwest corner of Washington Street and Appleton Street and being the point of beginning;

Thence South $89^{\circ}58'59''$ West 4.00 feet along the South line of said Lot 8 and being coincident with the North line of Washington Street;

Thence North $44^{\circ}57'14''$ East 5.65 feet to the East line of said Lot 8;

Thence South $00^{\circ}04'30''$ East 4.00 feet along the East line of said Lot 8 and being coincident with the West line of Appleton Street to the point of beginning.

SEE ALSO ATTACHED EXHIBIT "A"

EXHIBIT C

Legal Description for Acquisition SCOTT BERKEN and MICHELLE BERKEN

Tax Key No. 31-2-0408-00

Document No. 1481294

Fee Simple Interest:

A portion of land for street right way, being a part of Lot Four (4), in Block Thirty-Nine (39), **SECOND WARD PLAT (aka APPLETON PLAT)**, according to the recorded Assessor's Map of the City of Appleton, located in the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 32 Square Feet (0.0007 Acres) of land and described as follows:

Commencing at the Northeast corner of said Lot 4 being coincident with the Southwest corner of Franklin Street and Appleton Street and being the point of beginning;

Thence South $00^{\circ}04'30''$ East 8.00 feet along the East line of said Lot 4 and being coincident with the West line of Appleton Street;

Thence North $45^{\circ}04'42''$ West 11.31 feet to the North line of said Lot 4;

Thence North $89^{\circ}55'06''$ East 8.00 feet along the North line of said Lot 4 and being coincident with the South line of Franklin Street to the point of beginning.

SEE ALSO ATTACHED EXHIBIT "A"

EXHIBIT D

Legal Description for Acquisition 222 BUILDING LLC

Tax Key No. 31-2-0495-00

Document No. 1983849

Fee Simple Interest:

A portion of land for street right way, being a part of Lot Nine (9), in Block Forty-Six (46), **SECOND WARD PLAT (aka APPLETON PLAT)**, according to the recorded Assessor's Map of the City of Appleton, located in the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 104 Square Feet (0.0024 Acres) of land and described as follows:

Commencing at the Southeast corner of said Lot 9 being coincident with the Northwest corner of Franklin Street and Appleton Street and being the point of beginning;

Thence South $89^{\circ}55'06''$ West 8.00 feet along the South line of said Lot 9 and being coincident with the North line of Franklin Street;

Thence North $46^{\circ}04'45''$ East 4.16 feet;

Thence North $00^{\circ}01'41''$ West 17.10 feet;

Thence East 5.00 feet to the East line of said Lot 9;

Thence South $00^{\circ}01'41''$ East 19.97 feet along the East line of said Lot 9 and being coincident with the West line of Appleton Street to the point of beginning.

SEE ALSO ATTACHED EXHIBIT "A"

EXHIBIT E

Legal Description for Acquisition PACKARD HOLDING COMPANY LLC

Tax Key No. 31-2-0624-00

Document No. 1958823

Fee Simple Interest:

A portion of land for street right way, being a part of Lot One (1), Certified Survey Map No.2697, located in the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 26, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing 44 Square Feet (0.0010 Acres) of land and described as follows:

Commencing at the Northeast corner of said Lot 1;

Thence South $00^{\circ}05'18''$ East 262.55 feet along the East line of said Lot 1 and being coincident with the West line of Appleton Street to the point of beginning;

Thence South $56^{\circ}57'45''$ West 4.76 feet along the Northwesterly line of the Wisconsin Central Railroad right of way;

Thence North $00^{\circ}05'18''$ West 12.36 feet;

Thence South $89^{\circ}06'35''$ East 4.00 feet to the West line of Appleton Street;

Thence South $00^{\circ}05'18''$ East 9.70 feet along the West line of Appleton Street to the point of beginning;

SEE ALSO ATTACHED EXHIBIT "A"



"...meeting community needs...enhancing quality of life."

TO: Finance Committee
FROM: Jeri Ohman, Deputy Finance Director
DATE: January 10, 2022
RE: Request approval of 2021 Health grant adjustments

During 2021, the Health Department received additional funding to cover costs related to COVID-19 mitigation. I am requesting budget adjustments to record those revenues and the associated costs.

Vaccination Clinic Grant Fund

The first three budget amendment requests relate to additional revenues received for the Vaccination Clinic. The first is the Immunization/Vaccine grant from the State that covers the period July 2021 through December 2024. The second adjustment is to recognize funds received from Outagamie County for reimbursement of 60% of non-staff costs of the Fox Cities COVID-19 Vaccination Clinic. The final adjustment is to record revenue received from the sale of the beds purchased in 2020. These funds will be used to cover a portion of the costs of Fire staff at vaccination clinics.

ELC (Epidemiology & Laboratory Capacity) Grant Fund

The first budget adjustment for the ELC Grant Fund is to record the ELC COVID-19 Grant from the State along with the associated costs. This grant funding covers the period October 2020 through October 2022. The second adjustment is to move revenue from this grant to the Vaccination Clinic Grant Fund to cover costs related to the vaccination clinic for the time period January 2021 through June 2021.

Thank you for your consideration of these budget adjustments. As always, feel free to contact me if you have questions.



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**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

To: Finance Committee

From: Dean R. Gazza, Director of Parks, Recreation and Facilities Management

Date: January 11, 2022

Re: Action: Request to sole a source contract to McMahon for professional services needed to complete the 2022 Wastewater Hardscapes Improvement Project, for a contract fee of \$49,800 and a contingency of 5% to not exceed a total contract of \$52,290.

This memo is a request to sole source a contract to McMahon to fully design and create construction documents for the 2022 Wastewater Hardscapes Improvement Project. In moving forward with the 2022 Wastewater Hardscapes Improvement Project, McMahon has provided a detailed proposal of the work that is proposed with a competitive project fee of \$49,800.

The 2022 Capital Improvement Budget allocated monies to replace the road leading from the Primary Clarifiers Building to the F2 Building and the road from E-Building to D-Building at the Appleton Wastewater Treatment Plant. Overall, the road replacement will include stormwater modeling, demolition, new base, new storm sewer, and new concrete pavement.

In 2020 we solicited proposals from professional consulting firms to fully design, conduct stormwater modeling, create construction documents, and construction administration services for the Wastewater Treatment Plant for the 2020 Wastewater Hardscapes Improvement Project. Through the selection process, McMahon was awarded the contract. Then again in 2021 we solicited proposals from professional consulting firms to fully design, conduct stormwater modeling, create construction documents, and construction administration services for the 2021 Wastewater Hardscapes Replacement Project. Through the selection process, McMahon was again awarded the contract.

McMahon has as unsurpassed knowledge of the current hardscape infrastructure, current site conditions, and stormwater modeling from the two previous projects completed to date. Based upon McMahon's previous experience along with the proposals and selection process from the two previous years, we are requesting sole sourcing 2022 Wastewater Hardscapes Improvement Project professional services to McMahon in the amount of \$49,800 with a contingency of 5% only to be utilized as needed. We believe that our choice of McMahon will ensure that the investment is fully maximized based on their past work and continued continuity throughout a highly complex and technical project.

RECOMMENDATION:

Award Wastewater Electrical Distribution Upgrades Phase 4 professional services to McMahon in the amount of \$49,800 with a contingency of 5% only to be utilized as needed.

Please feel free to contact me at 832-5572 with any questions, or by email at dean.gazza@appleton.org.



"...meeting community needs...enhancing quality of life."

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 01/10/2022

RE: Action: Award the "2022 Telulah Park Pickleball Complex" to Northeast Asphalt, Inc. in the amount of \$484,862 with a contingency of \$15,138 for a total not to exceed \$500,000.

The 2022 Capital Improvement Plan includes the construction of a pickleball complex at Telulah Park. A private donation of \$500,000 was made and approved by the Common Council to fund this project in 2021. Only one bid was received.

The bid(s) were received as follows:

Northeast Asphalt	\$484,862
-------------------	-----------

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Northeast Asphalt, Inc. Upon conversation and review of the bid we do feel it is fair and competitive, therefore, the Parks, Recreation, and Facilities Management Department recommends awarding the contract to Northeast Asphalt, Inc. in the amount of \$484,862 with a contingency of \$15,138 to be used only as needed.

Please contact me at 832-5572 or at dean.gazza@appleton.org with any questions.



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MEMORANDUM

TO: Community and Economic Development Committee (CEDC)

FROM: Karen Harkness, Director of Community & Economic Development
Matt Rehbein, Economic Development Specialist

DATE: January 12, 2022

RE: Request Approval of the Development Agreement (Phase II) between the City of Appleton and Merge, LLC in TIF District #11

Tax Increment Financing District Number 11 (TIF District #11) was created by the City of Appleton in August 2017 under the authority provided by Wisconsin Statute Section 66.1105 "Tax Increment Law" to eliminate blight and stimulate the redevelopment of this urban corridor. TIF District #11 was created as a "Blighted District" based upon the finding that at least 50%, by area of the real property within the District, is blighted within the meaning of Wisconsin Statute Section 66.1105 and 66.1333. The Project Plan was amended in September 2020.

TIF District #11 is located along East College Avenue from approximately Drew Street to just west of Superior Street, south to Water Street, and north to East Pacific Street.

Merge LLC (Developer) is requesting assistance to support a mixed-use project. The parcel, located on the southeast corner of W. Washington Street and N. Appleton Street, is owned by the City of Appleton. The proposed concept is for a 5-story development which would include a mix of 75 residential units and ground floor commercial uses. A concept of proposed improvements is included as Exhibit B of the Development Agreement. A Development Agreement for Phase I (Former Conway Hotel Site) was executed between the City and Merge on September 9, 2021.

This parcel has been vacant since the City demolished the Blue Ramp and adjacent buildings in 2019. This development will offer another opportunity for residential living in our Central Business District. This project is targeted to support the City's Comprehensive Plan goal of increasing the quantity and variety of housing product offered in Downtown Appleton.

Based on the analysis of current value of the property, projected value of the property and review of proposed expenses, TIF District #11 would invest the lesser of eighteen percent (18%) or \$2,160,000 of the Tax Increment Value as of January 1, 2025, plus interest thereon to support the construction work for Merge, LLC.

Staff Recommendation:

The Development Agreement (Phase II) between the City of Appleton and Merge LLC **BE APPROVED.**

TAX INCREMENT DISTRICT NO. 11
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the ____ day of _____, 2022, by and among Merge LLC, an Iowa limited liability company ("Developer") and the City of Appleton, a Wisconsin municipal corporation (the "City").

RECITALS

Developer and the City acknowledge the following:

A. Developer owns or will acquire the real property located on the southeast corner of East Washington Street and North Appleton Street, (Parcel 31-2-0272-00, 31-2-0272-01, 31-2-0272-02) Appleton, WI more particularly described in Exhibit A, attached hereto (hereafter the "Property").

B. The Property is located within the City in Tax Increment District #11 (the "District") which was created in 2017 pursuant to Section 66.1105, Wis. Stats. along with a plan for the redevelopment of the District (the "District Plan") that provides for, among other things, the financial assistance set forth in this Agreement.

C. Subject to obtaining the financial assistance set forth herein, Developer has proposed improvements to the Property to create a five story, mixed-use development that includes a mix of residential unit styles on floors 2-5 with the ground floor containing retail and micro-retail space as well as common space for residential and commercial tenants (the "Project"). All references to the Project include the Property.

D. The City has determined that the Project will spur economic development, expand the City's tax base and create new jobs; that such financial assistance is a Project Cost under the Tax Incremental Law; that the amount of financial assistance provided pursuant to this Agreement is the amount necessary to induce development of the Project; and, that the Project will not proceed without the financial assistance set forth in this Agreement.

E. Subject to obtaining financial assistance as set forth herein, Developer intends to undertake a redevelopment of the property that will increase the value of the Property and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole, consistent with the District Plan. The City finds that this redevelopment of the Property and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serves a public purpose in accordance with state and local law.

F. The City, pursuant to Common Council Action dated _____, 2022 has approved this Agreement and authorized the execution of this Agreement by the proper City officers on the City's behalf.

G. The Developer has approved this Agreement and authorized the appropriate officers to execute this Agreement on the Developer's behalf.

H. The base value of the Property for purposes of this Agreement, including calculating increment generated by the Project, is Zero Dollars (\$0). The Developer estimates the project will create up to an additional Twelve Million Dollars (\$12,000,000) in incremental value.

I. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals and the promises and undertakings set forth herein, the parties mutually agree and covenant as follows:

ARTICLE I UNDERTAKINGS OF THE DEVELOPER

1.1 Developer shall purchase the property for \$590,000 from the City within one year of execution of this agreement. Said sale of Property to Developer is contingent upon Developer fulfilling the terms and conditions of this Agreement and the City shall retain a right to repurchase the Property as more particularly set forth in Article IV.

1.2 Developer's Project is the second of two phases, is currently known as "URBANE" and shall include improvements to, and development of, the Property as set forth in Exhibit B that will result in an increase in the Property's assessed value. All aspects of the Project shall be in accordance with all applicable City zoning and building codes, ordinances and regulations.

1.3 Project Costs shall include, without limitation, costs incurred after approval of this agreement for the construction of improvements (including infrastructure improvements), environmental remediation costs, demolition, interior remodeling and development of the project.

1.4 Developer warrants and represents to the City that but for the assistance provided by the City under Article II, herein, Developer would not be able to proceed with the Project.

1.5 Developer and City acknowledge that several of the specific undertakings of the parties may require approvals from directors, boards or the City Council as applicable. The parties' agreements are conditioned upon the obtaining of all such approvals in the manner required by law. The parties cannot assure that all such approvals will be obtained; however, they agree to use their best good faith efforts to obtain them on a timely basis.

ARTICLE II UNDERTAKINGS OF THE CITY

2.1 The City shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.

2.2 City shall cooperate with Developer throughout the Project and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances. In addition, the City agrees to work collaboratively with Developer in Developer's pursuit of various grant or similar funding opportunities.

2.3 Subject to all of the terms, covenants and conditions of this Agreement and applicable provisions of law, and as an inducement by the City to Developer to carry out the Project, upon completion of the Project (which shall be defined as issuance of occupancy permits for all floors of the Project (hereafter “completion”)) the City will provide payments to Developer solely from the future Tax Increments (derived from both real and personal property) to assist with Developer’s Project Costs. The City’s total payment of Tax Increment Revenue to the Developer shall not exceed the lesser of i) \$2,160,000 or ii) Eighteen percent (18%) of the Tax Increment Value as of January 1, 2025, plus interest thereon (the “Contribution”).

The Contribution will be paid to Developer as follows:

2.3.1 As the sole source for payment of the Contribution, the City agrees to pay the Developer an amount equal to ninety percent (90%) of the Tax Increment Revenue attributable to, and actually received from, the Property during the calendar year.

2.3.2 The first payment shall be made on August 15 of the year immediately after the Project’s completion. This first payment shall be based on the Property’s assessed value on January 1 of the year of completion. Thereafter payments under this Agreement shall be due in annual installments, on August 15, for a period of time described in Sec. 4.3.

2.3.3 Interest on the Contribution shall begin to accrue upon completion of the Project. The interest rate on the Contribution shall be lesser of 1) the interest rate paid by the Developer to the primary lender for the Project, as evidenced by the note indicating the loan amount; or, 2) four percent (4%).

2.3.4 The Contribution shall be a special and limited obligation of the City and not a general obligation. Payments shall first apply to accrued interest and then to the principal balance of the Contribution. Unpaid interest in any year shall be added to the principal balance of the Contribution and accrue interest. The City may prepay the Contribution, in its sole discretion, at any time, with no prepayment penalty.

2.4 This Agreement fully evidences the City’s obligation to pay the Contribution. No separate instrument will be prepared to evidence the City’s obligation to pay the Contribution. The Contribution shall not be included in the computation of the City’s statutory debt limitation because the Contribution is limited and conditional and no taxes will be levied or pledged for its payment. Nothing in this Agreement shall be deemed to change the nature of the City’s obligation from a limited and conditional obligation to a general obligation.

2.5 The City covenants to Developer that until the Contribution plus interest thereon has been paid in full, the City shall not close the District prior to its statutory expiration date.

2.6 The City shall, upon Developer’s request, provide to Developer an accounting of the status of the District including, but not limited to, the outstanding principal balance of the Contribution and annual Tax Increments received from the District.

2.7 Developer hereby acknowledges that, as a result of the special and limited nature of the City’s obligation to pay the Contribution, Developer’s recovery of the full amount of the Contribution depends on factors including, but not limited to, future mill rates, changes in the assessed value of the Property, the failure of the Property to generate the Tax Increments at the

rate expected by Developer, reduction in Tax Increments caused by revenue-sharing, changes in the Tax Increment Law, and other factors beyond the City's and/or Developer's control.

ARTICLE III PAYMENT OF TAXES

3.1 As long as the District is in existence, the Property and all buildings and improvements thereon shall be owned and taxable for real estate tax and special assessment purposes. The City may waive any or all of the restrictions upon execution of a payment in lieu of taxes (PILOT) agreement on a form, and with terms, acceptable to the City.

3.2 Throughout the duration of this agreement, all ad valorem property taxes properly assessed against the Property will be paid timely and in full.

3.3 In the event that any property owned by Developer within the District becomes exempt from ad valorem property taxes during the life of the District, then for the remaining life of the District, the Developer will make (or cause to be made) annual payments in lieu of taxes in amounts equal to what the ad valorem property taxes would have been for such other property had it not been exempt. If the Developer conveys the Property within the District to any party (related or unrelated), the terms of such sale shall impose as a covenant upon all successor owners of the property the foregoing obligation for payments in lieu of taxes during the life of the District. The City shall be a beneficiary of such covenant and entitled to enforce same against the successor owners.

ARTICLE IV CONDITIONS TO PAYMENT; REPURCHASE OF PROPERTY; TERMINATION OF AGREEMENT

4.1 The City shall have no obligation to pay any portion of the Contribution to Developer unless and until all of the following conditions shall have been met:

4.1.1 The Project's completion on or before January 1, 2025.

4.1.2 The Property's assessed value is no less than Twelve Million Dollars (\$12,000,000) on or before January 1, 2025.

4.1.3 The conditions herein are subject to reasonable extensions, not to exceed six (6) months each, for Force Majeure which shall include, but not be limited to, any delays caused by pandemic or other acts beyond the reasonable control of the Developer. Such extensions shall be by mutual written agreement and, in considering any requested extension, the City and Developer agree that each will act in good faith, cooperate in expeditious and timely approvals, and said extensions shall not be unreasonably withheld, conditioned or delayed by City.

4.2 The City was induced to sell the real property described in Exhibit A to Developer based on Developer's proposed Project and construction of the same according to the terms of this Agreement. As such, the City shall retain and the Developer shall grant the City a right to repurchase the real property (hereafter "repurchase options"). This repurchase option shall be subject to the following:

4.2.1 The City's repurchase right shall terminate upon Developer obtaining approved buildings plans and a building permit for improvements to the real property consistent with the Project as described in this Agreement, and, commencement of the Project's construction.

4.2.2 The City shall refrain from executing the repurchase right if Developer is making reasonable timely progress toward commencement of the Project's construction in accordance with the terms of the Agreement.

4.2.3 The City shall provide Developer thirty (30) day's written notice of its intent to repurchase the Property unless Developer waives said notice. Thereafter Developer shall execute all necessary documents and transfer the Property's unencumbered title to the City. In exchange, the City shall pay Developer \$590,000 (or the actual amount paid by Developer to the City) less \$1,000 per calendar month calculated from the first day of the month after this Agreement is executed through the date of sale. The City and Developer agree that each will act in good faith to facilitate a timely repurchase if the City exercises its repurchase right.

4.3 This Agreement, and the City's obligation to make, or continue, any payments of the Contribution, shall terminate when any of the following shall have occurred:

4.3.1 The conditions in Section 4.1 are not met.

4.3.2 The Contribution is paid in full or August 15, 2039, whichever occurs first.

ARTICLE V CONFLICT OF INTEREST

5.1 No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

ARTICLE VI WRITTEN NOTICES

6.1 Any written notice required under this Agreement shall be sent to the following individuals:

FOR THE CITY:

City of Appleton
Community and Economic Development Department
100 North Appleton Street
Appleton, WI 54911-4799
Attn: Director

With a copy to:

City of Appleton
City Attorney's Office
100 North Appleton Street
Appleton, WI 54911-4799
Attn: City Attorney

FOR DEVELOPER:

Merge LLC
25 West Main Street, Suite 500
Madison, WI 53718
Email: info@mergeurbandevlopment.com

With a copy to:

Squire Patton & Boggs
Attn: Steven F. Mount
41 South High Street, Suite 2000
Columbus, OH 43215
Email: steven.mount@squirepb.com

ARTICLE VII ASSIGNMENT

7.1 Terms of this Agreement are not transferrable or assignable. No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of all other parties.

ARTICLE VIII NO PARTNERSHIP OR VENTURE

8.1 Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer or any contractor or subcontractor employed by Developer in the construction of the Project.

ARTICLE IX MISCELLANEOUS

9.1 Under no circumstances shall any officer, official, director, member, manager, commissioner, agent, or employee of City or Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

9.2 The laws of the State of Wisconsin shall govern this Agreement.

9.3 This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

9.4 No modification, alteration, or amendment of this Agreement shall be binding upon any party until such modification, alteration, or amendment is reduced to writing and executed by all parties to this Agreement.

9.5 Any captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any of the provisions of this Agreement.

9.6 If any provisions of this Agreement shall be held or deemed to be inoperative or unenforceable as applied in any particular case in any jurisdiction because it conflicts with any other provision or provisions of this Agreement or any constitution or statute or rule of public policy, or for any other reason, then such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. To the maximum extent possible, this Agreement shall be construed in a manner consistent with the powers of the City, including but not limited to, the City's powers under the Blight Elimination and Slum Clearance Law and the Tax Increment Law, to achieve its intended purpose. Reference is made to Section 66.1333(17) of the Wisconsin Statutes and Chapter 105, Laws of 1975 § 4, which provide that the Blight Elimination and Slum Clearance Law and the Tax Increment Law should be construed liberally to effectuate their purposes.

[Signatures on following pages]

DEVELOPER:

Merge LLC

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

STATE OF _____)
: ss.
_____ COUNTY)

Personally came, before me this ____ day of _____, 2022,
_____, _____, _____ each
a member of the LLC, to me known to be the persons who executed the foregoing instrument and
acknowledged the same in the capacity and for the purposes therein intended.

Printed Name: _____
Notary Public, State of _____
My commission is/expires: _____

SCHEDULE OF EXHIBITS

- A. Legal Description of Property
- B. Proposed Improvements

DRAFT

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY
NEED TO UPDATE LEGAL FOR PHASE 2

DRAFT

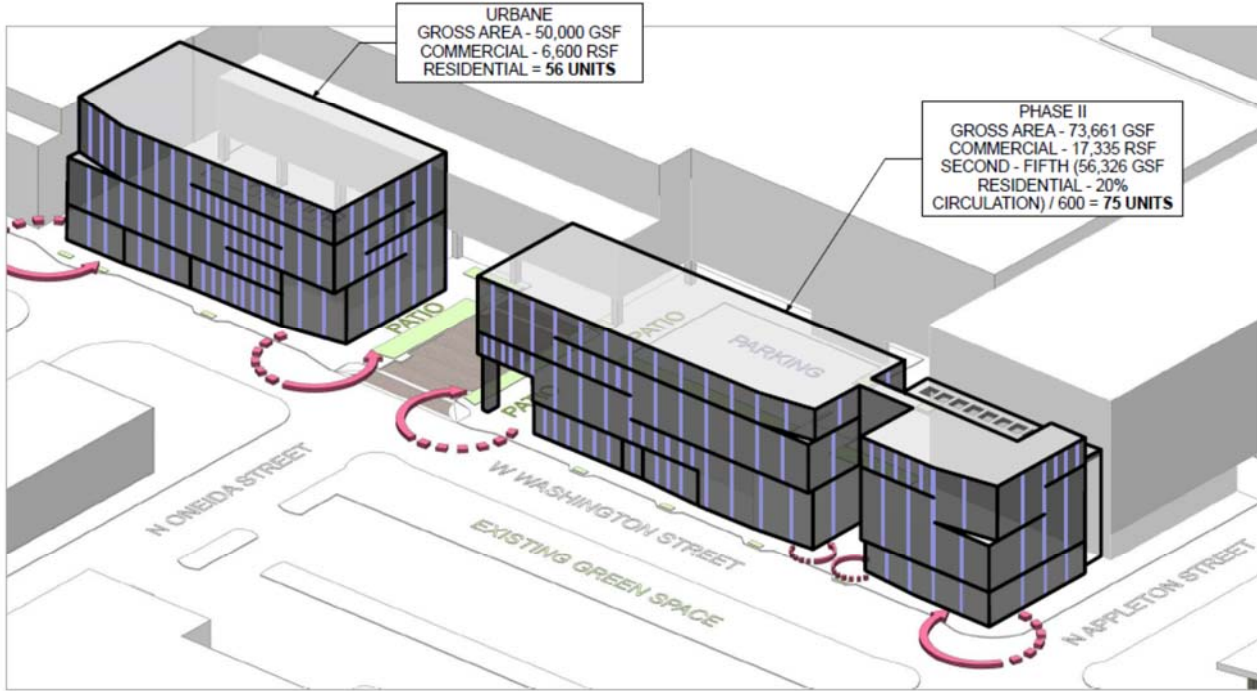
EXHIBIT B
PROPOSED IMPROVEMENTS
MAY NEED UPDATED PLANS/DESIGN FOR PHASE 2?

(Copy of Plans/Design docs follow)

DRAFT

APPLETON MIXED-USE

CONCEPT DIAGRAM



ONITSHOT
ARCHITECTURE

MERGE
URBAN DEVELOPMENT GROUP

2020.09.25

APPLETON MIXED-USE

TYPICAL UNIT DIAGRAM

ONE BEDROOM

- Walk-in closet
- Full kitchen
- Washer + dryer
- Bedroom with natural lighting
- Living and dining space

STUDIO UNITS

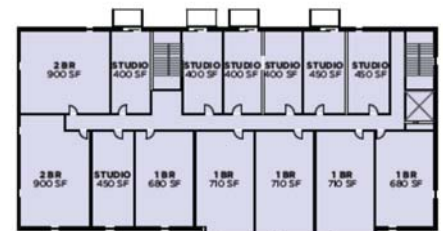
- Living room and dining area
- Built-in Murphy bed and sofa
- Ample cook and prep areas
- Built-in media center and desk work surface
- Dedicated laundry and closet space



1 BEDROOM TYPICAL PLAN
1/8" = 1' 0"



STUDIO TYPICAL PLAN
1/8" = 1' 0"



LEVEL 2-5 TYPICAL PLAN
1/32" = 1' 0"

APPLETON MIXED-USE

MICRO RETAIL



FEATURES

- 14' Min. Ceiling Heights
- Shared Restrooms
- Storefront
- 500 SQ.FT.



ON17SHOT
ARCHITECTURE

MERGE
URBAN DEVELOPMENT GROUP

2020.09.25

APPLETON MIXED-USE

VIGNETTE



ONISHOT
ARCHITECTURE

 **MERGE**
URBAN DEVELOPMENT GROUP

2020.09.25



APPLETON MIXED-USE

VIGNETTE



ONITSHOT
ARCHITECTURE



2020.09.25





"...meeting community needs...enhancing quality of life."

MEMO

TO: Utilities Committee

FROM: Paula Vandehey, Director of Public Works

DATE: January 5, 2022

SUBJECT: **2022 Private Lead/Galvanized Service Replacement Program.**

At the December 15, 2021 meeting of the Common Council, the Lead and Galvanized Water Service Line Replacement Ordinance was approved. This Ordinance requires property owners to replace their lead/galvanized service line within one year of notification by the City. The Common Council also allocated \$1 million of ARPA funds for replacing known public lead service lines. Based on the new Ordinance language and funding availability, the following program is recommended for 2022:

2022 Private Lead/Galvanized Service Replacement Program

Property owners will be notified by the city early in 2022 that they have a private lead/galvanized water service that needs to be replaced within one year of notification.

Property owner will be provided the option of:

- (1) Contracting with a licensed contractor to complete the replacement at the sole expense of the property owner within 365 days of notification by the city, or
- (2) Requesting to be included in the Water Utility System Construction Project. The Utility shall include an alternative to the contract requesting unit bid prices for the calculation of the cost for customer-side water service line replacement. These costs shall be covered by the funding allocated to the 2022 Private Lead/Galvanized Service Program, and not assessed back to the property owner. However, all restoration of the owner's property shall be the responsibility of the property owner (including, but not limited to topsoil, concrete, steps, asphalt, bushes, porches, and the like) and not part of the construction project.

In order to participate in the 2022 Program, property owner must notify the city no later than 30 days of written notification that they are requesting to be included in the Water Utility Construction Project and allow city staff access to home to review plumbing to water meter.



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Department of Utilities
Water Treatment Facility
2281 Manitowoc Road
Menasha, WI
920-832-5945 tel.
920-832-5949 fax

TO: Chairperson Vered Meltzer and Members of the Utilities Committee

FROM: Chris Shaw, Utilities Director

DATE: January 5, 2022

RE: *Award Contract Amendment 3 to Jacobs Engineering for the Water Treatment Facility Optimized Corrosion Control Treatment (OCCT) Studies in the amount of \$31,740 and a total revised contract of \$190,790*

BACKGROUND:

Corrosion in a water distribution system can lead to shortened asset life of infrastructure components and reduced water quality to customers taps. Nationally and at the state level lead levels have become a concern amongst the public. This is a result of corrosion where water systems release lead which is above regulatory limits. Currently, the Appleton Water Treatment Facility meets all State and Federal requirements for lead. However, the Wisconsin Department of Natural Resources is recommending improvements to the City's Corrosion Control Plan. The purpose of this Corrosion Control Treatment project is to determine the best course of action that will enhance water quality (reduce any existing lead) while being fiscally responsible to the utility's rate payers.

This project had two prior phases. The first phase consisted of the theoretical water chemistry needed to decrease the corrosiveness of Appleton water. The second phase completed a full scale experiment with lead service lines that were incorporated into a testing apparatus. The apparatus was computer controlled and evaluated a number of treatment alternatives. As an outcome of the theoretical and actual phases a report was submitted to the WDNR with recommendations for corrosion treatment. The recommendation allows for the elimination one treatment chemical and addition of two more.

To produce information regarding this change and also complete a preliminary engineering phase of the changes, I am recommending a contract amendment for Phase 3 be executed with Jacobs Engineering to produce the following:

SCOPE OF WORK:

- Determine modifications needed to use one of either two existing chemical systems
- Determine modifications needed to convert to phosphoric acid (e.g., safety, storage, ventilation, etc.)
- Determine modifications needed to the existing sodium hydroxide storage and feed system
- Prepare conceptual design criteria for the two new chemical systems including feed rates that will meet WDNR requirements
- Prepare a construction cost estimate (Class 5), including bidding, construction services, and construction costs
- Provide a technical report detailing the preliminary engineering findings

This engineering work was not included earlier due to the unknown recommendations of phase 2. An evaluation team comprised of myself, the technical services manager, the water plant manager, and the utilities deputy director completed a review of the Jacobs engineering proposal and found it to be of good value. Moreover, Jacobs has produced well on project deliverables during the first two phases of OCCT work.

RECOMMENDATION:

Award Phase 3 OCCT Contract Amendment 3 to Jacobs Engineering Engineering in the amount of \$31,740 and a total revised contract of \$190,790. If you have any questions regarding this project please contact Chris Shaw at ph: 920-832-2362



Appleton Health Department
100 North Appleton Street
Appleton, WI 54911-4799
(920) 832-6429 
www.appleton.org

MEMO

TO: Board of Health

FROM: Steve Kihl, Environmental Health Supervisor

DATE: January 5, 2022

SUBJECT: Resolution #15-R-21: Honeybee Rescue, Meltzer/Schultz

In response to Resolution #15-R-21 regarding the allowance of additional hives and colonies for honeybee rescue purposes, Health Department staff met with Legal Services staff to determine the best way to fulfill the intent of the resolution.

It was determined that we do not need to change the Municipal Code to the resolution language, but rather address the changes in the requirements and limitations that are on file in the Health Department. These rules for both Residential Beekeeping and Non-residential Beekeeping will need to be modified. For consistency between the two sets of rules, it was suggested by Legal Services to remove the limitations from Municipal Code section 3-52 (b), as this is already addressed in the corresponding rules. The specific proposed changes are outlined in the attached documents and are intended to carry out the intent of the Resolution. All changes to the requirements and limitations on file with the Health Department are approved by Common Council before implementation.

Health Department staff is also requesting that the licensing periods for both Residential and Non-residential permits be changed to a calendar year. This will streamline the permit renewal process to coincide with the chicken permits. Currently, all three of these permits have different renewal periods.

Resolution #15-R-21
Honeybee Rescue Resolution

Date: November 17, 2021

Submitted By: Alderperson Meltzer – District 2, & Alderperson Schultz – District 9

Referred To: Board of Health

WHEREAS Honeybee rescue is a service provided for free by local beekeepers in order to provide an alternative to insecticides and relocate bees from undesired locations while preserving the safety of both humans and bees; and

WHEREAS the rescue process is physically challenging and the queen of the colony often does not survive the extraction, and a colony will die off without its queen; and

WHEREAS a nucleus colony is a very small hive that produces no honey, which is kept solely for the purpose of replacing failed queens; and

WHEREAS other circumstances such as severe weather events can cause a hive to fail and need a replacement queen, but replacement queens that can be purchased may not survive transit or may not arrive in time for a hive in crisis; and

WHEREAS the local beekeepers who perform rescues are the only individuals with the resources and opportunity to find a new home for a rescue colony and if necessary a new queen;

THEREFORE BE IT RESOLVED THAT the City of Appleton make the following amendments to Sec 3-52(b) in the Municipal Code:

1. Amend “(5) honeybee hives may be maintained” to “(5) honeybee hives and (2) nucleus colonies may be maintained”
2. Add to the end of Sec 3-52(b) the following language: “A beekeeper may temporarily exceed the allowable number of hives for a 30 day period in order to rescue a colony, to determine that it’s disease-free, and to verify or establish a viable queen.”

Sec. 3-52. Restricted species.

(a) Except as otherwise permitted within this section, no person shall keep, sell or offer for sale within the City any horses, cows, pigs, goats, sheep, bees, pigeons, chickens, geese, ducks or other fowl or any other domestic animal other than a dog, cat, rabbit, small caged birds, small caged animals or reptiles or aquatic and amphibian animals, kept solely as pets.

(b) Upon obtaining a permit issued by the Health Department, ~~up to five (5) honeybee hives may be maintained by a permit holder within honeybee hives in~~ areas zoned P-I, Public Institutional District; ~~and on building rooftops within the Central Business District (CBD), or, and a permit holder may maintain three (3) honeybee hives per acre up to a maximum of twenty-five (25) hives within an area~~ approved as an urban farms, may be maintained subject to the requirements and limitations on file with the Health Department.

(c) Upon obtaining a permit issued by the Health Department, residential honeybee hives may be maintained subject to the requirements and limitations on file with the Health Department.

(d) Upon obtaining a permit issued by the Health Department, and subject to the requirements and limitations on file with the Health Department, a limited number of pigeons may be maintained by the permit holder.

(e) Upon obtaining a permit issued by the Health Department, and subject to the Rules and Regulations for hen keeping, up to six (6) chicken hens may be maintained by the permit holder. The Rules and Regulations for chicken hen keeping shall be on file in the Health Department. The permit will allow up to six (6) chicken hens at all one- (1-) and two (2-) family dwellings.

RESIDENTIAL BEEKEEPING PERMIT REQUIREMENTS
(Ref. 3-52 Appleton Municipal Code)
Enacted November 11, 2015 and last revised April 24, 2020

DEFINITIONS:

AGGRESSIVE BEHAVIOR is any instance in which unusual characteristics are displayed by a honeybee or colony including, but not limited to, stinging or attacking humans or animals without provocation.

APIARY means the assembly of one or more colonies of bees at a single location on a property.

BEEKEEPER means a person who owns or has charge of one (1) or more colonies of bees and has demonstrated to the Health Officer that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

BEEKEEPING EQUIPMENT means all items used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY means an aggregate of honeybees in a hive consisting principally of workers, but having one queen and at times drones, including brood, combs and honey.

HEALTH DEPARTMENT means the City of Appleton's Health Department.

HIVE means the receptacle inhabited by a colony that is manufactured for that purpose.

HONEYBEE means all life stages of the common domestic honeybee, *Apis mellifera* species, including the queen and drones.

LOT means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds

NUCLEUS COLONY means a small hive that produces no honey and is kept solely for the purpose of replacing failed queens.

PERMIT means the written approval given by the Health Department to a property owner who occupies the premises and who is also a beekeeper pursuant to the definition herein.

PERMIT HOLDER means a beekeeper and who has received a permit from the Health Department allowing for an apiary on his or her property.

PROPERTY means a parcel of land identified by the City of Appleton as a lot in any state of development, ownership and occupation.

PROPERTY OWNER means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

URBAN FARM means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

1. **GENERALLY.** No person shall keep honeybees in the City of Appleton without being a beekeeper and obtaining a permit issued by the Health Department. Permits will expire annually on December 31. ~~A permit shall be valid for a period of one (1) year from~~

~~November 1 through October 31 the following year, and may be renewed annually.~~ Only one (1) permit shall be granted per property regardless of the number of beekeepers residing at or owning said property. Should multiple beekeepers request permits and be eligible for permits for a property, the permit shall be issued on a first-come, first-served basis.

2. **APPLICATION FOR PERMIT.** Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Health Department and shall contain such information which the Health Department may prescribe and require and shall be accompanied by payment of the applicable fees. The Application form may be updated and/or amended as deemed necessary by the Health Department. No prior approval of a permit guarantees future approval. The Health Department reserves the right to require permit holders to reapply if the application is updated and/or amended, and refusal to reapply may result in the termination of a permit.

(a) GENERAL REQUIREMENTS.

1. The applicant must complete the required form by the Health Department, and provide to the Health Department the non-refundable application fee.
2. The permit applicant must provide proof of formal education and/or sufficient practical experience to act as a beekeeper.
3. The permit applicant must provide proof of property ownership for the property where the proposed apiary will be located.
4. The permit application must provide proof of occupancy of the property where the proposed apiary will be located.

- (b) INSPECTION OF APIARY. Prior to populating the apiary, an inspection of the apiary by the City Health Officer or his or her designee shall be conducted to ensure compliance with all of the following provisions:

1. ~~Quantities: Number of hives allowed. The maximum number of hives on any residentially zoned lot shall be five (5).~~
 - a. The maximum number of hives on any residentially zoned lot shall be five (5).
 - b. The maximum number of nucleus colonies on any residentially zoned lot shall be two (2).
 - a-c. Upon written notification to the Health Department, a beekeeper may temporarily exceed the allowable number of hives for a period of time not to exceed thirty (30) days in order to rescue a colony, determine that the colony is disease free, and to verify or establish a viable queen.
2. Occupation. Apiaries in residentially zoned areas must be located on the lot occupied by the permit holder.
3. Vacant/Unoccupied Lot. No apiary may be placed on vacant or unoccupied lots.

4. Hive type. Only top bar hives or removable frame hives shall be used. Hives shall be continuously maintained in sound and usable condition by the permit holder.
5. Identification. Each apiary shall, at all times, have the permit holder's name, address and phone number permanently and legibly displayed in a prominent place on an external portion of each hive.
6. Flyway Barrier. For all hives located within thirty (30) feet of a property line, a 6-foot high closed fence, closed hedge or other approved barrier shall be located between the rear and/or side property lines and the hive(s). A flyway barrier is not needed if the hive(s) are kept at least ten (10) feet off the ground. Flyway barriers, if required shall meet the requirements of the building code.
7. Water Supply. A continuous supply of water shall be located on the property where the apiary is located, and placed near the hive(s) and within the enclosures or flyway barriers. The water source shall be designed to allow the honeybees' access to water by landing on a hard surface available to the honeybees so long as they remain active outside of the hive.
8. Placement.
 - a. All beekeeping equipment must be located a minimum of thirty (30) feet from the front property line and ten (10) feet from all other property lines.
 - b. Hives may not be located in the front yard of any lot. Should there be multiple street frontages to a property or no front yard clearly indicated on the property records for a property, the placement of the apiary shall be at the discretion of the City Health Officer.
 - c. Apiaries must be located a minimum of fifty (50) feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission to the Health Department for closer placement.
 - d. Hives should face southeast (SE) direction if possible.

3. **PERMIT RENEWAL.**

- (a) Permits shall be renewed each year on a form furnished by the Health Department unless written notice of discontinued operation is received by the Health Department. The annual permit renewal fee shall be kept on file in the Health Department.

4. **APIARY MAINTENANCE.**

- (a) Beekeeping equipment shall be actively maintained and managed at all times by the permit holder.
- (b) If a permit holder no longer intends to maintain and/or manage their apiary, the

permit holder must immediately notify the Health Department and remove or dismantle the hive(s). Failure to immediately remove the hives will be grounds for the Health Department to cause the removal of the hive(s) and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627

- (b) In any instance where the City Health Officer reasonably believes a colony exhibits aggressive behavior, it shall be the duty of the permit holder to immediately destroy or re-queen the hive.
- (c) Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- (d) The provisions of Sec. 3-15(a), Appleton Municipal Code, do not apply to beekeeping.

5. **RIGHT OF ENTRY.**

- (a) The Health Officer or his or her designee may enter upon any permit holder's property at any time to inspect the apiary, beekeeping equipment and/or honeybees, and may take photographs and/or videos of the apiary, beekeeping equipment and/or honeybees as he or she deems necessary, or take any other action deemed necessary to properly enforce the provisions of this section.
- (b) If the Health Officer or his or her designee finds any apiary kept in violation of any portion of this section, he or she may order the violation corrected within thirty (30) days unless the violation appears to put the honeybees or people in immediate harm or danger, in which case the Health Officer or his or her designee may order the immediate correction of the violation. If the permit holder fails to correct the violation pursuant to the order of the Health Officer, the hive(s) in violation may be destroyed and/or removed from the municipality by the Health Officer or his or her designee and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627.

6. **DENIAL, SUSPENSION OR REVOCATION OF PERMIT** The Health Officer shall have the sole authority to deny an application based on the Applicant's failure to meet the application requirements. After issuance of the permit, the Health Officer may suspend or revoke any permit issued pursuant to this section for violations of ordinances, laws or requirements regulating activity and for other good cause.

7. **APPEALS.** Any person aggrieved by the denial, suspension or revocation of a permit by the Health Officer, or any other order, may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a permit or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Updated per Resolution #10-R-19 approved by Common Council on 4/1/2020

NON-RESIDENTIAL BEEKEEPING PERMIT REQUIREMENTS
(Ref. 3-52(b) Appleton Municipal Code)
Last updated 5/17/2017

DEFINITIONS:

APIARY means the assembly of one or more colonies of bees at a single location on a property.

BEEKEEPING means intentionally creating, fostering or maintaining a colony of honeybees.

BEEKEEPER means a person who owns or has charge of one or more colonies of bees and has demonstrated to the Health Officer that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

BEEKEEPING EQUIPMENT means all items used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY means an aggregate of honeybees in a hive consisting principally of workers, but having, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

HONEY-BEE means all life stages of the common domestic honeybee, *Apis mellifera* species.

NUCLEUS COLONY means a small hive that produces no honey and is kept solely for the purpose of replacing failed queens.

URBAN FARM means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

1. GENERALLY.

No person shall keep honeybees in the city without being a beekeeper and obtaining a permit issued by the Health Department. Permits will expire annually on December 31. ~~A permit shall be valid for a period of one year from July 1 through June 30, and may be renewed annually, except that a permit initially issued during the period beginning March 1 and ending on June 30 expires on June 30 the following year.~~

2. APPLICATION FOR PERMIT

Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the

Department may prescribe and require and shall be accompanied by payment of the applicable fee.

(a). NEIGHBORHOOD APPROVAL REQUIRED.

Before a permit is issued for the keeping of bees, the following process shall be followed:

1. **Written permission from the property owner is required if the permit applicant doesn't own the property where bees will be kept.**
2. When a permit is applied for, all property owners within a circular area having a radius of 200 feet, centered on the premises for which a permit has been requested, shall be notified of the application by the Health Officer. Notification shall be by first-class U.S. mail.
3. Property owners shall have 14 working days to file a written objection to the Health Officer if they object to the granting of a permit.
4. Upon receipt of a written objection, the matter shall be placed on the Agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall allow the applicant and objector an opportunity to be heard on why the permit should or should not be issued. The Board shall make a recommendation to the Common Council regarding approval of said permit.

(b). INSPECTION OF APIARY

Prior to populating the hive or hives, an inspection shall be conducted to ensure compliance with all of the following provisions:

1. Up to five (5) honeybee hives and two (2) nucleus colonies may be maintained by a permit holder within areas zoned P-I, Public Institutional District and **Central Business District (CBD)**; or, a permit holder may maintain three (3) honeybee hives and one (1) nucleus colony per acre up to a maximum of twenty-five (25) hives and nine (9) nucleus colonies within an area approved as an urban farm. Upon written notification to the Health Department, a beekeeper may temporarily exceed the allowable number of hives for a period of time not to exceed thirty (30) days in order to rescue a colony, determine that the colony is disease free, and to verify or establish a viable queen.
2. All colonies shall be kept in hives with removable frames, which shall be maintained in sound and usable condition.

3. Each apiary shall have the owner's name and address legibly displayed in a prominent place in the apiary. All hives shall be permanently marked with the owners name and address, if located off the property under control of the hive owner.
4. A 6-foot high closed fence, or closed hedge, a building, or other solid flyway barrier, or other type of barrier which the Health Officer determines to be of sufficient height, shall be located between the hives and the rear and side property lines for all hives located within 30 feet of the property line. A flyway barrier is not needed if the bee hive or hives are kept at least 10 feet off the ground. *Health Officer discretion will be used regarding the need for physical barriers.*
5. A continuous supply of water shall be located on the property where hives are kept, be located near the hive or hives, and be located within the enclosures and flyway barriers. The water source shall be designed to allow bees to access water by landing on a hard surface. This provision is not required during the winter.
6. All hives and related structures that form the apiary shall be located a minimum of 30 feet from the front property line and 10 feet from all other property lines. Hives may not be located in the front yard of any lot.
7. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission for closer hive placement.

3. APIARY MAINTENANCE

- a. Hives shall be actively maintained. Hives not under active human management and maintenance shall be dismantled or removed by the most recent permit holder.
- b. In any instance in which a colony exhibits aggressive or swarming behavior, it shall be the duty of the beekeeper to destroy or re-queen the hive. Queens shall be selected from stock bred for gentleness and non-swarming characteristics. Aggressive behavior is any instance in which unusual characteristics such as stinging or attacking humans or animals without provocation occurs.
- c. The provisions of Sections 3-15 (a), Appleton Municipal Code, do not apply to beekeeping.

4. RIGHT OF ENTRY.

- a. The Health Officer, or his or her designee, may enter upon any property required to hold a permit in this section at all reasonable times to inspect the premises, obtain photographs or take any other action deemed necessary to properly enforce the provisions of this section.
- b. If the Health Officer, or his or her designee, finds any hive kept in violation of these requirements, he or she may order the violation corrected within 30 days. If the permit holder fails to correct the violation within 30 days, the hive in violation may be destroyed and/or removed from the municipality by the Health Officer, or his or her designee, and the cost thereof shall be charged back to the property owner as a special charge pursuant to Wis. Stat. § 66.0627.

5. SUSPENSION OR REVOCATION OF PERMIT

The Health Officer may suspend or revoke any permit issued pursuant to this section for violations of ordinances, laws or requirements regulating activity and for other good cause.

6. APPEALS

Any person aggrieved by the denial of a permit or by suspension or revocation of a permit by the Health Officer, or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a permit or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Approved at the March 2, 2011 Board of Health meeting.

Approved at the March 2, 2011 Common Council meeting.

Amended 3-29-13 to include the 3-20-13 Council approval of beehives at urban farms

Amended 5-10-17 to include BOH approval of beehives on rooftops in CBD

Approved by Common Council on 5-17-17

RESIDENTIAL BEEKEEPING PERMIT REQUIREMENTS
(Ref. 3-52 Appleton Municipal Code)
Enacted November 11, 2015 and last revised April 24, 2020

DEFINITIONS:

AGGRESSIVE BEHAVIOR is any instance in which unusual characteristics are displayed by a honeybee or colony including, but not limited to, stinging or attacking humans or animals without provocation.

APIARY means the assembly of one or more colonies of bees at a single location on a property.

BEEKEEPER means a person who owns or has charge of one (1) or more colonies of bees and has demonstrated to the Health Officer that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

BEEKEEPING EQUIPMENT means all items used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY means an aggregate of honeybees in a hive consisting principally of workers, but having one queen and at times drones, including brood, combs and honey.

HEALTH DEPARTMENT means the City of Appleton's Health Department.

HIVE means the receptacle inhabited by a colony that is manufactured for that purpose.

HONEYBEE means all life stages of the common domestic honeybee, *Apis mellifera* species, including the queen and drones.

LOT means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds

NUCLEUS COLONY means a small hive that produces no honey and is kept solely for the purpose of replacing failed queens.

PERMIT means the written approval given by the Health Department to a property owner who occupies the premises and who is also a beekeeper pursuant to the definition herein.

PERMIT HOLDER means a beekeeper and who has received a permit from the Health Department allowing for an apiary on his or her property.

PROPERTY means a parcel of land identified by the City of Appleton as a lot in any state of development, ownership and occupation.

PROPERTY OWNER means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

URBAN FARM means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

1. **GENERALLY.** No person shall keep honeybees in the City of Appleton without being a beekeeper and obtaining a permit issued by the Health Department. Permits will expire annually on December 31. Only one (1) permit shall be granted per property regardless of

the number of beekeepers residing at or owning said property. Should multiple beekeepers request permits and be eligible for permits for a property, the permit shall be issued on a first-come, first-served basis.

2. **APPLICATION FOR PERMIT**. Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Health Department and shall contain such information which the Health Department may prescribe and require and shall be accompanied by payment of the applicable fees. The Application form may be updated and/or amended as deemed necessary by the Health Department. No prior approval of a permit guarantees future approval. The Health Department reserves the right to require permit holders to reapply if the application is updated and/or amended, and refusal to reapply may result in the termination of a permit.

(a) GENERAL REQUIREMENTS.

1. The applicant must complete the required form by the Health Department, and provide to the Health Department the non-refundable application fee.
2. The permit applicant must provide proof of formal education and/or sufficient practical experience to act as a beekeeper.
3. The permit applicant must provide proof of property ownership for the property where the proposed apiary will be located.
4. The permit application must provide proof of occupancy of the property where the proposed apiary will be located.

- (b) INSPECTION OF APIARY. Prior to populating the apiary, an inspection of the apiary by the City Health Officer or his or her designee shall be conducted to ensure compliance with all of the following provisions:

1. ~~Quantities: Number of hives allowed. The maximum number of hives on any residentially zoned lot shall be five (5).~~
 - a. Up to five (5) honeybee hives and two (2) nucleus colonies may be maintained by a permit holder within a residentially zoned lot.
 - b. Upon written notification to the Health Department, a beekeeper may temporarily exceed the allowable number of hives for a period of time not to exceed thirty (30) days in order to rescue a colony, determine that the colony is disease free, and to verify or establish a viable queen.
2. Occupation. Apiaries in residentially zoned areas must be located on the lot occupied by the permit holder.
unoccupied lots.
3. Vacant/Unoccupied Lot. No apiary may be placed on vacant or
4. Hive type. Only top bar hives or removable frame hives shall be used. Hives shall be continuously maintained in sound and usable condition by the permit holder.

5. Identification. Each apiary shall, at all times, have the permit holder's name, address and phone number permanently and legibly displayed in a prominent place on an external portion of each hive.
6. Flyway Barrier. For all hives located within thirty (30) feet of a property line, a 6-foot high closed fence, closed hedge or other approved barrier shall be located between the rear and/or side property lines and the hive(s). A flyway barrier is not needed if the hive(s) are kept at least ten (10) feet off the ground. Flyway barriers, if required shall meet the requirements of the building code.
7. Water Supply. A continuous supply of water shall be located on the property where the apiary is located, and placed near the hive(s) and within the enclosures or flyway barriers. The water source shall be designed to allow the honeybees' access to water by landing on a hard surface available to the honeybees so long as they remain active outside of the hive.
8. Placement.
 - a. All beekeeping equipment must be located a minimum of thirty (30) feet from the front property line and ten (10) feet from all other property lines.
 - b. Hives may not be located in the front yard of any lot. Should there be multiple street frontages to a property or no front yard clearly indicated on the property records for a property, the placement of the apiary shall be at the discretion of the City Health Officer.
 - c. Apiaries must be located a minimum of fifty (50) feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission to the Health Department for closer placement.
 - d. Hives should face southeast (SE) direction if possible.

3. **PERMIT RENEWAL.**

- (a) Permits shall be renewed each year on a form furnished by the Health Department unless written notice of discontinued operation is received by the Health Department. The annual permit renewal fee shall be kept on file in the Health Department.

4. **APIARY MAINTENANCE.**

- (a) Beekeeping equipment shall be actively maintained and managed at all times by the permit holder.
- (b) If a permit holder no longer intends to maintain and/or manage their apiary, the permit holder must immediately notify the Health Department and remove or dismantle the hive(s). Failure to immediately remove the hives will be grounds for the Health Department to cause the removal of the hive(s) and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627

- (b) In any instance where the City Health Officer reasonably believes a colony exhibits aggressive behavior, it shall be the duty of the permit holder to immediately destroy or re-queen the hive.
- (c) Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- (d) The provisions of Sec. 3-15(a), Appleton Municipal Code, do not apply to beekeeping.

5. **RIGHT OF ENTRY.**

- (a) The Health Officer or his or her designee may enter upon any permit holder's property at any time to inspect the apiary, beekeeping equipment and/or honeybees, and may take photographs and/or videos of the apiary, beekeeping equipment and/or honeybees as he or she deems necessary, or take any other action deemed necessary to properly enforce the provisions of this section.
- (b) If the Health Officer or his or her designee finds any apiary kept in violation of any portion of this section, he or she may order the violation corrected within thirty (30) days unless the violation appears to put the honeybees or people in immediate harm or danger, in which case the Health Officer or his or her designee may order the immediate correction of the violation. If the permit holder fails to correct the violation pursuant to the order of the Health Officer, the hive(s) in violation may be destroyed and/or removed from the municipality by the Health Officer or his or her designee and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627.

6. **DENIAL, SUSPENSION OR REVOCATION OF PERMIT** The Health Officer shall have the sole authority to deny an application based on the Applicant's failure to meet the application requirements. After issuance of the permit, the Health Officer may suspend or revoke any permit issued pursuant to this section for violations of ordinances, laws or requirements regulating activity and for other good cause.

7. **APPEALS**. Any person aggrieved by the denial, suspension or revocation of a permit by the Health Officer, or any other order, may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a permit or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Updated per Resolution #10-R-19 approved by Common Council on 4/1/2020

AN ORDINANCE AMENDING SECTION 15-26 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DEFINITIONS.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-26 of Chapter 15 of the Municipal Code of the City of Appleton, relating to definitions, is hereby amended to read as follows:

Sec. 15-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved shall mean approved by the Director of Public Works unless specifically stated otherwise.

Bundle shall mean to securely tie with string or twine.

City shall mean the City of Appleton.

Collecting and transporting service means a municipal or privately operated agency, business or service for the collecting or transporting of solid waste for disposal or recycling purposes.

Composting means the process of decaying organic matter, such as leaves, garden debris, grass clippings, raw kitchen scraps and other vegetative materials capable of natural decomposition.

County shall mean Outagamie County unless specifically stated otherwise.

Department shall mean the Department of Public Works.

Disposable bag means a one-way disposable bag made of polyethylene, or other plastic material consisting of a minimum of one and one-half (1½) mils thickness. Bags shall not exceed a volume capacity of thirty (30) gallons. Whenever the term “disposable bag” or “bag” is used in this chapter, such words will mean disposal bag as herein described.

Dwelling unit shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

Eligible Electronic Devices shall include the following:

- (1) ***Consumer computers.*** High-speed data processing devices for performing logical, arithmetic, or storage functions that are marketed by the manufacturer for use by households or schools. Computers include traditional, desktop-style computers with a separate monitor and tower or box, laptop/notebook/netbook computers (any of these with a screen at least 7” in the longest diagonal direction are also video display devices); and servers used by a household or covered school. Consumer computer does **not** include an automated typewriter or typesetter; or a portable hand-held calculator or device.
- (2) ***Consumer printers.*** One of the following that is marketed by the manufacturer for use by households or schools: a desktop printer, including inkjet and laser printers that can be placed on a work surface; or a device that prints and has other functions, such as copying, scanning, or sending facsimiles, and that is designed to be placed on a work surface. Consumer printer does **not** include a calculator with printing capabilities or a label maker.
- (3) ***Consumer video display devices.*** Televisions or computer monitors with a tube or screen that is at least 7 inches in its longest diagonal measurement and that are marketed by the manufacturer for use by households or schools.

Computer monitor means an electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a consumer computer or the Internet. Computer monitors include: CRT or flat-panel monitors used with a desktop computer; “all-in-one” desktop-style computers where the screen is integrated with the processor; laptop/notebook/netbook computers; and e-readers or other portable devices with screens of at least 7 inches in the longest diagonal direction that display information from the Internet or a processor.

Television means an electronic device, with a cathode ray tube or flat panel display, primarily intended to receive video programming via broadcast, cable, or satellite transmission or to receive video images from surveillance or similar cameras. All types of televisions with a screen of at least 7 inches in the longest diagonal direction including older box-style, CRT models; LCD displays; LED/OLED displays; plasma and rear projection.

The following are **not** considered consumer video display devices under the law: a television or computer monitor that is part of a motor vehicle and that is incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a franchised motor vehicle dealer (i.e., a computer monitor or television that was built into the vehicle before it was purchased); a television or computer monitor contained within a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove, dishwasher, room air conditioner, dehumidifier, or air purifier; any video display device that is not marketed for use by households

or schools (such as displays in equipment only used in specific industrial/commercial settings); digital photo frames; or portable DVD players

- (4) ***Computer peripherals.*** Keyboards or any other devices, other than a consumer printer, that are sold exclusively for external use with a consumer computer and that provide input into or output from a consumer computer, including, for example: external CD/DVD drives; external hard drives/backup drives; external modems; flash drives/memory sticks for use with computers; game controllers (joysticks, etc.) used with a computer; keyboards; mice; projectors (LCD, LED, etc.) used with a consumer computer; scanners; speakers used with a computer; and webcams or similar cameras specifically for a computer.
- (5) ***Fax Machines.***
- (6) ***DVD players.***
- (7) ***VCRs.***
- (8) ***Digital video players/recorders.***
- (9) ***Telephones with video displays.*** Cellular/mobile phones, including multifunction phones such as iPhones or BlackBerries. The following are **not** considered telephones with video displays under WDNR regulations: corded or cordless phones (phones that plug in to a phone jack in the wall).

Litter shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper and all other debris and discarded materials of similar nature.

Overflow refuse means refuse placed for collection in a disposable bag not placed inside a polycart or mechanically dumped container.

Person shall have the definition set forth in Appleton Municipal Code §1-2.

Polycart means a plastic container issued by the City of Appleton for the storage and collection of solid waste or recyclables.

Premises shall mean platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure. Premises include the following categories:

- (1) ***Residential, single-family premises.*** Any housing building containing a single-family dwelling unit. For the purposes of this chapter, any housing building with

less than five (5) dwelling units shall fall in this category. Each unit shall be regarded as a single-family dwelling unit.

- (2) ***Multi-family premises.*** All housing buildings having five (5) or more dwelling units.
- (3) ***Commercial or business premises.*** Any public or private place, building and/or enterprise devoted in whole or in part to a business enterprise whether non-profit or profit making in nature.
- (4) ***Institutional premises.*** Any institutional enterprise, including, but not limited to, hospitals, churches, schools, nursing homes, motels and homes for the aging.

Recyclables means all materials designated by the Director of Public Works for inclusion in the City recycling program.

Salvageable materials shall mean discarded material no longer of value as intended, but which is stored or retained from salvage, sale or future reuse.

Solid wastes shall be as defined in §289.01(33), Wisconsin Statutes; it includes the following categories:

- (1) ***Brush*** means trimmings from shrubs and trees, tree limbs less than six (6) inches in diameter and stalks from garden plants. Brush does not include stumps, root balls or logs greater than six (6) inches in diameter.
- (2) ***Bulky wastes*** shall mean discarded articles of such dimension as are not normally collected with domestic waste including, but not limited to, furniture, small rugs, and tires, but would be considered domestic wastes. In general, bulky wastes are those wastes too large to be placed in a disposable bag or polycart, and approved by the director.
- (3) ***Commercial wastes*** shall mean wastes resulting from the operation of business enterprises including, but not limited to offices, stores, restaurants and similar businesses.
- (4) ***Construction and/or demolition waste*** shall mean waste resulting from building construction, demolition, alteration, repair or remodeling, including excavated material and waste such as concrete, stone, asphalt, soil, earth, dirt and brick.
- (5) ***Domestic waste*** shall mean garbage, refuse, ashes and other waste including, but not limited to metal, glass, paper, wood, rags, plastic, rubber, cloth, cans, bottles, litter, and small quantities of construction and/or demolition wastes, and limited nauseous and/or offensive wastes, with the understanding that these wastes resulting from human habitation and the usual routine of housekeeping of

residential units or incidental to its operation. Domestic waste does not include grass clippings, leaves, tree waste, or yard waste.

- (6) **Garbage** shall be as defined in §289.01(9), Wisconsin Statutes.
- (7) **Grass clippings** means the product of ordinary mowing and maintenance of lawns during the growing season.
- (8) **Hazardous waste** shall be as defined in Wisconsin Administrative Code NR 605.04.
- (9) **Industrial waste** shall be as defined in Wisconsin Statutes §281.01(5).
- (10) **Liquid waste** shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents and other similar waste materials.
- (11) **Nauseous or offensive materials** are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, carcasses, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances and also object that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass and other similar materials or substances.
- (12) **Refuse** shall mean miscellaneous combustible and noncombustible waste material resulting from housekeeping activities including, not limited to, ashes, glass, metals, rubber, street wastes, wood, cloth and litter.
- (13) **Tree waste** shall mean waste resulting from the care of trees, shrubs and bushes by pruning and/or wind and storm damage and/or trimming including branches, limbs, trunks and stumps.
- (14) **Vehicle waste** shall mean waste resulting from discarded items of a vehicle, including but not limited to, tires, mufflers, exhaust pipes, engine parts, and could include whole vehicles.
- (15) **Yard waste less than one inch in diameter** means all materials originating in the yard and garden which are capable of natural decomposition, exclusive of grass clippings.

Special collection tag shall mean a tag issued by the Department of Public Works for the collection of tires, appliances, overflow refuse or other materials specified by the Director.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

AN ORDINANCE AMENDING SECTION 15-28 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO CONTAINERS.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-28 of Chapter 15 of the Municipal Code of the City of Appleton, relating to containers, is hereby amended to read as follows:

Sec. 15-28. Containers.

(a) Owners of a single-family premise shall be provided polycarts by the City for each premise. One polycart shall be for solid waste storage and the other shall be designated solely for the collection of recyclables. Only polycarts and bags marked with a special collection tag are permitted containers for solid waste collection for single-family residences. Recyclables shall only be disposed of in the designated polycart.

(b) Owners of multiple-family premises shall provide and maintain suitable containers having sufficient capacity to store a normal one- (1-) week accumulation or collection of garbage, refuse and recycling of all units.

(c) All containers used for the collection of solid waste material or recyclables shall be structurally sound and specifically designed for the storage of solid waste or recycling material. They shall be durable, rust resistant, nonabsorbent, watertight and easily cleaned. Containers used for solid waste and recycling storage or collection must have properly fitting covers unless specifically authorized by the Director of Public Works.

(d) One-way disposable bags made of polyethylene (minimum one and one-half (1½) mil)) properly secured, are acceptable containers for overflow refuse only when marked with a special collection tag.

(e) Garbage and refuse stored outside or on top of such containers will not be collected unless placed in a disposable bag and marked with a special collection tag. Bulky items such as furniture and carpets are exempted.

(f) Any container used for collection of solid waste or recyclable material shall be maintained in a clean, sanitary and structurally sound manner so as to prevent the creation of a nuisance or menace to public health and safety.

(g) The use of dumpsters for the storage or disposal of solid waste or recyclables for one-(1-) or two-(2-) family residences is prohibited; except for the temporary use of a dumpster in conjunction with an active building or razing permit, or the use of a dumpster for a period not to exceed fourteen (14) days and the household waste only.

(h) Any container deemed defective by the Director of Public Works may be removed as refuse by the City following notification to the occupant.

(i) Other types of containers conforming to the intent of this section and approved by the Director of Public Works may be used.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

3-22

AN ORDINANCE AMENDING SECTION 15-30 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PREPARATION OF SOLID WASTE AND RECYCLABLES.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-30 of Chapter 15 of the Municipal Code of the City of Appleton, relating to preparation of solid waste and recyclables, is hereby amended to read as follows:

Sec. 15-30. Preparation of solid waste and recyclables.

- (a) Domestic solid waste may be mixed and placed in a common container.
- (b) Domestic waste shall be drained of all free liquid, then wrapped, packaged and/or bundled.
- (c) Commercial waste must be drained and stored in approved containers.
- (d) Brush must be cut into four- (4-) foot lengths and tied in bundles. Bundles shall be no larger than two (2) feet in diameter and weigh no more than forty-five (45) pounds. Max branch diameter is three (3) inches.
- (e) Cardboard boxes shall be broken down and placed inside the recycling polycart for collection.
- (f) Ashes shall be thoroughly cooled before being placed for collection.

(g) All refuse shall be free of jagged or sharp edges, protruding nails, broken glass, protruding screws and any other hazardous condition.

(h) Overflow refuse (tires and other solid waste designated by the City) must be marked with a special collection tag.

(i) Recyclables must be cleaned and placed in a recycling container. Paper does not need to be separated from other recyclables.

(j) Grass clippings, brush, leaves, tree waste and yard waste may not be mixed with domestic or commercial wastes.

(k) Eligible Electronic Devices may not be placed for collection with either solid wastes or recyclables. They must be disposed of in a manner and at a location approved by the Wisconsin Department of Natural Resources.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

4-22

AN ORDINANCE AMENDING SECTION 15-31(b) OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PLACEMENT FOR COLLECTION.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-31(b) of Chapter 15 of the Municipal Code of the City of Appleton, relating to placement for collection, is hereby amended to read as follows:

Sec. 15-31. Placement for collection.

(b) All solid waste and recyclables shall be placed at the ground level next to the curb. During the winter months, containers must still be placed at ground level next to the curb. This may be accomplished by placing the containers in the driveway, or a suitable area can be shoveled out on the street side of the boulevard.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

5-22

AN ORDINANCE AMENDING SECTION 15-33 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO COLLECTION SERVICE.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-33 of Chapter 15 of the Municipal Code of the City of Appleton, relating to collection service, is hereby amended to read as follows:

Sec. 15-33. Collection service.

(a) ***Residences.*** Residential solid waste shall be collected one (1) time per week, and recycling every two (2) weeks, from dwelling units according to schedule established by the Director of Public Works. Solid waste set out for collection must originate at the residence being serviced; waste set out for collection that originated at a different property will not be collected.

(b) ***Commercial establishments.*** Commercial establishments shall privately contract for collection of solid waste and recycling. For existing commercial customers of the city using 90-gallon containers, solid waste shall be collected one (1) time per week.

(c) ***Industrial waste.*** The City does not collect industrial waste.

(d) ***Yard waste.*** Residential yard waste will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(e) ***Brush.*** Residential brush will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(f) ***Bulky Overflow.*** Residential bulky overflow shall be collected on the schedule on file with the Department of Public Works.

(g) ***Grass clippings.*** The City will not collect grass clippings.

(h) ***Toxic and hazardous waste.*** The City will not collect toxic and hazardous waste.

(i) ***Small dead animals*** shall be collected by the Department. Animals must be

placed in a disposable bag.

(j) ***Nauseous or offensive waste.*** Liquid, manure, and other offensive or harmful waste. All liquid, hazardous or toxic waste and certain nauseous or offensive waste shall be stored separately from all other waste in approved containers. Such containers shall be clearly labeled, rodent resistant, nuisance free, sealed and secured to prevent access by the public, or as otherwise provided in the rules of the Director and not contrary to any order from the City of Appleton Health Officer or Director of Inspections. Such waste shall be considered commercial waste, and need not be collected by the Department.

(k) ***Construction debris.*** Construction debris shall not be collected by the City. It shall be the responsibility of the owner and/or contractor to dispose of construction debris as provided by law.

(l) ***Disposal of infectious material.*** The removal of apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the City Health Officer. Waste shall be disposed of pursuant to Wisconsin Administrative Code NR 506.11.

(m) ***Hazardous and/or toxic waste.*** Placing or depositing any hazardous or toxic waste including, but not limited to, explosive materials such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gunpowder, gasoline or other similar material in disposal bag, polycart or reusable container for collection is prohibited.

(n) ***Leaves.*** Leaves will be collected curbside during a fall collection period as designated by the Department of Public Works. Any person may alternatively transport leaves to a designated City recycling site for disposal. Persons so transporting leaves shall be responsible to cover or otherwise contain the leaves in a manner so as to prevent scattering or dumping of the leaves in transport. The Director of Public Works shall publish times the site shall be open for the disposal of leaves.

(o) ***Lead acid batteries.*** In this subsection, “lead acid battery” means any battery which is primarily composed of both lead and sulfuric acid, with a capacity of six (6) volts or more.

- (1) No person may place a used lead acid battery in mixed municipal solid waste.
- (2) No automotive battery retailers may dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter, to a collection or recycling facility or to a secondary lead smelter.
- (3) Each battery improperly disposed under subsection (1) or (2) above shall constitute a separate violation.

- (4) Retailers and wholesalers of lead acid batteries shall provide for collection of used lead acid batteries for recycling as follows:
- a. Any person selling lead batteries at retail shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers.
 - b. Any person selling lead acid batteries at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers. Any automotive battery wholesaler accepting batteries from any automotive battery retailer shall remove batteries from the retail point of collection not less than every ninety (90) days.

(p) ***Eligible Electronic Devices.*** The City will not collect eligible electronic devices. Eligible Electronic Devices left on the terrace shall be removed by the property owner.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

6-22

AN ORDINANCE AMENDING SECTION 15-34 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO FEES.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-34 of Chapter 15 of the Municipal Code of the City of Appleton, relating to fees, is hereby amended to read as follows:

Sec. 15-34. Fees.

(a) All charges related to the disposal of solid waste shall be on file in the Department of Public Works. These shall include, but are not limited to, the amount to be charged for overflow bag tags, tires, can charges or any other permit or charge pursuant to this article.

(b) Unscheduled overflow collections or brush/yard waste collections shall result in the assessment of additional fees.

(c) Additional collection and disposal fees shall be assessed to

property owners who fail to properly dispose of Eligible Electronic Devices.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

7-22

AN ORDINANCE AMENDING SECTION 15-35 OF CHAPTER 15 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PENALTY.
(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 15-35 of Chapter 15 of the Municipal Code of the City of Appleton, relating to penalty, is hereby amended to read as follows:

Sec. 15-35. Penalty.

Any person violating any provision of this article shall forfeit not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00)

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

8-22

AN ORDINANCE CREATING SECTION 20-44 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LEAD AND GALVANIZED WATER SERVICE LINE REPLACEMENT.
(Utilities Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 20-44 of Chapter 20 of the Municipal Code of the City of Appleton, relating to lead and galvanized water service line replacement, is hereby created to read as follows:

Section 20-44. Lead and galvanized water service line replacement.

(a) ***Intent and purpose.*** The Common Council of the City finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead and/or galvanized water service lines in use within the city water utility system and in private systems, and to that end, declares the purposes of this section to be as follows:

- (1) To ensure that the water quality at every tap of utility customers meets the water quality standards specified under the federal law;
- (2) To reduce the lead in city drinking water to meet the Environmental Protection Agency (EPA) standards in city drinking water for the health of city residents;
- (3) To meet Wisconsin Department of Natural Resources (WDNR) requirements for local compliance with EPA's Lead and Copper Rule.

(b) ***Authorization.*** This Section is enacted pursuant to §62.11(5) and §281.12(5), Wis. Stats., and as mandated by 42 U.S.C. Sec. 300g, of the Federal Safe Drinking Water Act, enforced by the EPA and with WDNR.

(c) ***Definitions.*** The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Customer-side water service line means the water conduit pipe running from the customer's meter to the curb stop which is the water utility shut-off valve usually located behind the curb on public property.

Director means the City of Appleton's Director of Public Works or their authorized representative.

EPA means the United States Environmental Protection Agency.

Lead and/or Galvanized Water Service Line means a water service line comprised of lead and/or galvanized piping.

Licensed contractor means a person, firm, corporation, or other entity licensed to perform plumbing work in the State of Wisconsin.

Notice means written notification provided to the property owner and, if different, the tenant or occupant of the property identified on the water utility bill.

Utility means the City of Appleton Water Utility.

Water Utility System Construction Project means a utility project whereby the lead and/or galvanized water service lines may be replaced as part of a utility project.

Water Service Line Replacement Program means a program developed by the City and/or Utility to offer financial assistance to property owners for the purpose of replacing lead and/or galvanized water service lines. It shall also be referred to as the “Replacement Program” within this section.

WDNR means the Wisconsin Department of Natural Resources.

(d) ***Identification of lead and galvanized service lines.***

- (1) Upon notice from the Utility, any person or entity who owns, manages or otherwise exercises control over a property connected to the Utility distribution system shall allow the Director to inspect the customer-side service line to determine the material of construction as authorized pursuant to Wis. Stats. §196.171 et. seq.
- (2) The Utility and/or the Director shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the utility for inspection of the service line. If entry is refused, the Director may obtain a special inspection warrant under Wis. Stats. §66.0119. Upon request, the owner, lessee or occupant of any property so served shall furnish to the Utility any pertinent information regarding the piping on such property.
- (3) The Utility shall create and maintain a record of the location of all identified lead and/or galvanized service lines in the City of Appleton.
- (4) If the property has been identified as having lead and/or galvanized water service lines, the Utility shall provide written notice of the presence of lead and/or galvanized water service line.

(e) ***Replacement of lead and/or galvanized service lines.***

- (1) All lead and/or galvanized water service lines must be replaced regardless of whether on the Utility-side or the customer-side. As of the effective date of the ordinance from which this division is derived, no lead and/or galvanized service line will be allowed to connect to a Utility line once replaced.

- a. **Owner to Replace Lead and/or Galvanized Service Line.** Known existing lead and/or galvanized water service lines connected to the Utility shall be replaced with water service lines made of suitable material and at the owner's expense. Replacement shall be completed within one year (365 days) of written notification by the Utility unless an exception is granted pursuant to section (f)(2) of this section.

- b. **Service Line Replacement in conjunction with Water Utility System Construction.**
 1. *Notification to Property Owners.* Notice shall be provided detailing the utility-side replacement of lead and/or galvanized service lines. The notification shall occur in the calendar year prior to commencement of the construction.

 2. *Inspection Required.* The Director or their designee shall endeavor to inspect all water service line connections in which the material comprising the water service lines are unknown to the Utility. The Director may perform the inspection of the customer-side water service line for the presence of lead or galvanized pipe prior to the time that the Water Utility system is to be reconstructed. If there is a refusal or failure to permit the Director access to inspect the service line, the Director may pursue a special inspection warrant to compel inspection of the property, may discontinue service pursuant to section (h), and/or may impose a forfeiture pursuant to section (l), of this section.

 3. *Replacement.* In the event that a customer-side water service line is found to contain lead and/or galvanized pipe, the Director shall notify the owner, in writing, of that fact.
 - i. The affected property may contract with a licensed contractor to complete the replacement; or

 - ii. The property owner may request to be included in the Water Utility System Construction Project. The Utility shall include an alternative to the contract requesting unit bid prices for the calculation of the cost for customer-side water service line replacement. The property owner will be charged the entire cost of the removal and replacement if funded by the Utility. In addition, all restoration of the owner's property shall be the responsibility of the property owner (including, but not limited to top

soil, concrete, steps, asphalt, bushes, porches, and the like).

(f) ***Exceptions.***

- (1) The Utility may modify the inspection requirement set forth under section (d) if the customer submits a request in writing to the Director of Public Works. The Director of Public Works or their designee shall have sole discretion in whether to grant a request to modify the inspection requirements.
- (2) The Utility may modify the 365-day replacement requirement set forth under section (e)(1)a. if the customer submits a request in writing to the Director of Public Works detailing reasons for the delay. The Director of Public Works shall have sole discretion in whether to grant an extension of time for compliance.

(g) ***Financial Assistance.*** In the event funding is made available for the purpose of replacing customer-side water service lines, the City will establish a Water Service Line Replacement Program. A property owner may opt into the Program for the replacement of the lead and/or galvanized customer-side water service line under the terms of the Replacement Program. Eligibility requirements as well as conditions of participation for the Replacement Program will be kept on file in the Department of Public Works. Disputes regarding eligibility for financing may be appealed to the Utilities Committee, unless otherwise noted in the Replacement Program eligibility and participation policy.

(h) ***Authority to discontinue service.*** The Water Utility is authorized to discontinue water service to such property served by a lead and/or galvanized water service line after reasonable notice and in a manner consistent with the rules and regulations of the City of Appleton Utility and the Public Service Commission of Wisconsin governing discontinuance of water service.

(i) ***Penalties.*** Any person who violates any provision of this chapter, including failing to comply with the applicable customer-side water service line replacement requirements as set forth in this section, or directly or indirectly preventing or hindering the Appleton Water Utility employee from making an inspection, examination, removal, or installation, shall be fined not more than \$25 for each offense. Each day a violation continues may be considered a separate offense.

(j) ***Severability.*** If any subsection or portion of this chapter is for any reasons held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that subsection or portion shall be deemed severable and shall not affect the validity of the remaining portions of this chapter.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

9-22

AN ORDINANCE AMENDING SECTION 9-54(c) OF CHAPTER 9 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DEMERIT POINT SYSTEM; CALCULATING VIOLATIONS.

(Safety and Licensing Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 9-54(c) of Chapter 9 of the Municipal Code of the City of Appleton, relating to demerit point system; calculating violations, is hereby amended to read as follows:

Sec. 9-54. Demerit point system.

(c) *Calculating violations.* In determining the accumulated demerit points, the date of conviction shall be used as the basis for assigning demerit points per violation. Points shall be assigned only after conviction for violations.

Section 2: This ordinance shall be in full force and effect July 1, 2022.

10-22

AN ORDINANCE AMENDING SECTION 9-54(d) OF CHAPTER 9 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DEMERIT POINT SYSTEM; SUSPENSION AND REVOCATION OF LICENSE.

(Safety and Licensing Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 9-54(d) of Chapter 9 of the Municipal Code of the City of Appleton, relating to demerit point system; suspension and revocation of license, is hereby amended to read as follows:

Sec. 9-54. Demerit point system.

(d) *Suspension and revocation of license.* The Police Department shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any licensee. Following this notification, or the filing of a complaint pursuant to W.S.A. §125.12, the Committee shall hold a hearing if required by W.S.A. §125.12 or this section, and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

- (1) For demerit points totaling 25-149 within a 24-month period, a warning to the licensee of the consequences of additional violations. The licensee shall appear before the Safety and Licensing Committee and inform the Committee of the licensee's efforts to rectify the issues that caused the imposition of the demerit points.
- (2) For demerit points totaling 150-199 within a 24-month period, suspension of the license for a period of not less than ten (10) days nor more than ninety (90) days.
- (3) For demerit points totaling two hundred (200) or more within a 36-month period, revocation of the license. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

Section 2: This ordinance shall be in full force and effect July 1, 2022.

11-22

AN ORDINANCE AMENDING SECTION 9-628(d) OF CHAPTER 9 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LICENSE AND STREET OCCUPANCY PERMIT REQUIRED.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 9-628(d) of Chapter 9 of the Municipal Code of the City of Appleton, relating to license and street occupancy permit required, is hereby amended to read as follows:

Sec. 9-628. License and Street Occupancy Permit required.

- (d) No more than eight (8) Licenses may be issued for on-street units.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

12-22

AN ORDINANCE AMENDING SECTION 9-640 OF CHAPTER 9 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO VENDING OF PRODUCTS FROM VEHICLE OR OTHER ON-STREET UNIT IN THE PUBLIC STREETS.

(Municipal Services Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 9-640 of Chapter 9 of the Municipal Code of the City of Appleton, relating to vending of products from vehicles or other on-street unit in the public streets, is hereby amended to read as follows:

Sec. 9-640. Vending of products from vehicles or other on-street unit in the public streets.

(a) No food shall be sold from a vehicle other or on-street unit in any public street in the City of Appleton except in compliance with the requirements of this section and §9-639 above.

(b) Any vehicle or other on-street unit used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

(c) Each such vehicle or other on-street unit used for vending food shall be licensed for such use by the Department of Health.

(d) If such vehicle or other on-street unit is a motor vehicle, it must have valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.

(e) A vehicle or other on-street unit which is operated for the purpose of selling food from the unit in the public streets shall be operated only by a person who shall have obtained a license under this division.

(f) In addition, the operator or the owner of any motor vehicle shall furnish proof of current insurance issued by an insurance company authorized to do business in the State of Wisconsin and shall maintain such insurance as a condition of licensing under this division. The insurance shall provide coverage for bodily injury, including accidental death, as well as for claims for property damage which may arise from the operations under the license. The policy limits of such insurance shall be the same as those required in §9-629 above.

(g) Amplified music or other sounds from any vehicle used for the purpose of vending products in the public streets shall comply with the applicable requirements of Chapter 12, Article IV of this code pertaining to noise.

(h) No sales shall be made from a vehicle except from the curbside of said vehicle.

(i) No sales shall be made within fifty (50) feet of the main entrance of a licensed food establishment during the hours said business is open to the public unless written permission is granted by an authorized representative of that establishment to the permit holder.

(j) No on-street unit may park adjacent to a sidewalk café or an establishment with a Street Occupancy Permit for tables and chairs when the tables and chairs are present on the amenity strip.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.